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MELAMINE IN CRYSTAL FORM FROM AUSTRIA AND ITALY

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Determination of No Material Injury
or Threat Thereof in Investigations
Nos. 731-TA-13 (Final) and 731-TA-14
(Final) Under the Tariff Act of 1930,
Together With the Information
Obtained in the Investigations

USITC PUBLICATION 1065

MAY 1980

United States International Trade Commission / Washington, D.C. 20436

I

UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Data which would disclose confidential operations of individual concerns may not be published and therefore have been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.
(731-TA-13 and 14 (Final))

Melamine in Crystal Form From Italy and Austria

Determination

On the basis of the record 1/ developed in the investigation Nos. 731-TA-13 and 14, the Commission determines pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of melamine in crystal form 2/ from Austria and Italy, which the U.S. Commerce Department has determined are being sold in the United States at less than fair value.

Background

Melamine Chemical, Inc. (MCI) filed a petition, alleging injurious dumping of melamine in crystal form from Austria, Italy and the Netherlands, with the Treasury Department on March 23, 1979. On November 13, 1979, Treasury issued preliminary affirmative LTFV determinations with respect to melamine from Austria and Italy, but a tentative negative LTFV determination with respect to melamine from the Netherlands. Effective January 1, 1980, authority to administer the antidumping statute was transferred from Treasury to the Commerce Department.

1/ The "record" is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).
2/ Provided for in item 425.10 of the Tariff Schedules of the United States.

On January 7, 1980, the Commerce Department notified the Commission that, as of January 1, 1980, the Treasury Department had made an affirmative preliminary determination that imports of melamine in crystal form from Austria and Italy had been sold or were being sold in the United States for less than fair value. Consequently, the Commission instituted on January 8, 1980, but effective January 1, 1980, antidumping investigations Nos. 731-TA-13 (Final) and 731-TA-14 (Final) pursuant to section 735 of the Tariff Act of 1930, as added by Title I of the Trade Agreements Act of 1979, to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of melamine in crystal form, from Austria and Italy, which are being, or likely to be, sold at less than fair value. 3/ Commerce issued a preliminary affirmative determination with respect to melamine in crystal form from the Netherlands on February 26, 1980. The Commission instituted its antidumping investigation No. 731-TA-16 (Final) corresponding to investigation Nos. 731-TA-13 and 14 on March 13, 1980.

Commerce made final affirmative LTFV determinations with regard to imports of melamine from Italy on March 20, and with regard to Austria and the Netherlands on March 21, 1980. A public hearing was held in Washington, D.C. on April 11-12, 1980, and all persons who had requested the opportunity were permitted to appear in person or through counsel. On April 25, 1980, Commerce

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3/ Notice of the institution of investigation Nos. 731-TA-13 and 14 and of the hearing to be held in connection therewith was published in the Federal Register of January 17, 1980 (45 F.R. 3401).

4/ Notice of institution of this investigation and a hearing date was published in the Federal Register of March 17, 1980 (45 F.R. 17096).

notified the Commission that "melamine in crystal form from the Netherlands is not being sold at less than fair value," thus terminating investigation No. 731-TA-16.

STATEMENT OF REASONS OF CHAIRMAN CATHERINE BEDELL, AND COMMISSIONERS GEORGE M. MOORE AND PAULA STERN

For the Commission to make an affirmative final determination in these investigations pursuant to section 735(b) of the Tariff Act of 1930 (1673d(6)), it must find that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded, [1] by reason of imports of melamine in crystal form from Austria and Italy, which the Department of Commerce (Commerce) has found to be, or likely to be, sold in the United States at less than fair value. [2]

The domestic industry

For the purposes of these investigations, we have concluded that the domestic industry against which the impact of imports of LTFV melamine from Austria and Italy should be measured, consists of those facilities in the United States producing melamine in crystal form. Virtually all melamine produced in the United States and abroad is consumed in the manufacture of melamine-formaldehyde resins for end uses, such as high-pressure laminates, molding compounds, surface coatings, paper treating and paper coating, and textile treating and textile coating. There were three such producers during the period of investigation: Allied Chemical Corp. (Allied), American Cyanamid Co., and the complainant, Melamine Chemical, Inc. (MCI). Allied's melamine production was shut down in December 1978, and was sold to Ashland Oil in mid-1979. The Allied facility has not since been reopened. In contrast, American Cyanamid remains quite active; it imports, produces for domestic sales, and produces for its own captive use. MCI produces only for the merchant market, and has no captive consumption of its own melamine. 3/ The staff report presents aggregated figures in some areas for an industry based on the above definition. However, in evaluating the competitive impact of LTFV import on a U.S. industry, wherever the record allows us to make the distinction, we have specifically looked at melamine produced for the merchant market.

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[1] Since there is an established domestic melamine industry, the question of material retardation of the establishment of an industry is not at issue.

[2] Commissioner Stern concurs in the Findings of Fact as stated in the Views of Vice Chairman Alberger and Commissioner Calhoun.

The nature and extent of LTFV sales

The Commerce investigation concluded that LTFV margins existed for melamine from Austria, ranging from 7.2 to 23.1 percent of the fair market value, with a weighted average LTFV margin of 10.8 percent; and for melamine from Italy, ranging from 13.2 to 25.8 percent of the fair market value with a weighted average LTFV margin of 23.7 percent. Commerce examined 100 percent of the sales of melamine to the United States made during the period November 1, 1978-March 31, 1979 for imports from Austria and 100 percent of the sales of melamine to the United States during the period November 1, 1978-April 30, 1979, for imports from Italy, and found that all sales were at less than fair value prices.

The question of material injury

With respect to the question of material injury, the Commission is directed by section 771 of the Tariff Act of 1930 to consider, among other factors, the volume of imports of the merchandise subject to the investigation, the price effects of such imports, and the impact of such imports on the affected U.S. industry.

3/ See additional views of Commissioner Paula Stern on the scope of the domestic industry on pp. 10-11 of this report.

The volume of LTFV imports

Imports of melamine from Italy rose from zero in 1976 to 263,000 pounds in 1977 and 6 million pounds in 1978, but fell from 5.6 million pounds in January-November 1978 to 1.5 million pounds in January-November 1979. Imports from Austria were 579,000 pounds in 1976, 2.2 million pounds in 1977 and 3 million pounds in 1978. They then fell from 2.7 million pounds in January-November 1978 to 2 million pounds in January-November 1979. Melamine imports from the two LTFV countries together rose from 579,000 pounds in 1977 to 9 million pounds in 1978, but dropped to 3.5 million pounds in January-November 1979, from 8.3 million pounds in January-November 1978. The ratio of melamine imports from Italy to U.S. domestic consumption rose from 1976 to 1978, but fell sharply in 1979. 4/ The ratio of melamine imports from Austria to U.S. domestic consumption likewise rose during the period 1976 to 1978 and fell by nearly half for the first 11 months of 1979. The combined ratio of melamine imports from Austria and Italy, to domestic consumption, also rose from 1976 to 1978 and fell sharply in 1979. 5/ This ratio, based on Commission questionnaire responses, is confidential. However using public import data the ratio of imports to domestic production fell from 8.1 percent in January-November 1978 to less than half that figure for the period January-November 1979. 6/ This volume, in light of the other factors discussed below, is not significant.

Price effects of LTFV imports

Austrian melamine was priced competitively with the domestic product in each of the years investigated, except in 1977 when a margin of underselling of more than one cent per pound occurred.7/ Italian melamine was priced more

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4/ Id. Staff Report to the Commission, at A-46, table 18.
5/ Id., at A-45, table 17.
6/ Id., at A-19, table 3 and A-31, table 9.
7/ Id., at A-56 , table 22.

than one cent per pound below the price for domestic melamine during the period November 1977-March 1979, but was priced competitively with the domestic product for the balance of 1979. 8/

However, during the period of increased LTFV imports, 1976-1978, domestic prices of melamine rose at an average annual rate of 4 percent, roughly paralleling trends of other industrial chemicals and resins. 9/ This indicates the absence of price suppression or depression in the industry despite the existence of some underselling of the domestic product by LTFV imports.

Impact of LTFV imports on the domestic industry

Section 771 of the Act instructs the Commission to examine, with respect to the impact of the LTFV imports on the domestic industry, all relevant economic factors, including, but not limited to, actual and potential decline in output, sales, market share, profits, productivity, return on investments, utilization of capacity, factors affecting domestic prices, and actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment. The Commission received questionnaire responses on nearly all of the above-mentioned factors for the firms that account for 100 percent of production and shipments.

Total domestic capacity utilization declined from 85 percent in 1976 to 84 percent in 1977 and to 77 percent in 1978. Capacity utilization increased slightly in January-November 1979 from the corresponding period in 1978. 10/ However, much of the decline in capacity utilization during 1976-1978 can be

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8/ Id., at A-57, table 23.
9/ Id., at A-60, see also A-62, figure 6.
10/ Id. at A-21-23, table 5.

attributed to non-import related problems of Allied during this period. 11/ Because of its antiquated production facilities, Allied suffered breakdown and quality-control disruptions. In addition, its melamine production was dependent upon its production of urea and ammonia which was also periodically disrupted.

When Allied finally closed its plant in December 1978, obviously capacity also declined for the industry. However, compeny representatives cited non-import related reasons for their decision: (1) aging plant and equipment which required substantial capital investment for modernization and satisfaction of federal pollution requirements; and (2) the inability to produce ammonia (and urea) feedstocks at a profit because of the depressed prices for ammonia. 12/ Likewise, total U.S. production of melamine declined steadily from 1976 to 1979, but much of this decline is attributable to difficulties suffered by Allied. 13/ Although Allied suffered numerous problems, imported melamine sold at LTFV prices does not appear to have been one of them. Therefore, we have been careful to avoid having Allied's experience color our assessment of the impact of LTFV imports on the melamine industry.

Other economic factors make a positive showing. The number of industry-wide workers involved in domestic melamine production increased from 207 in 1976 to 223 in 1978. In 1979, the number of workers declined because Allied closed its plant. But in the two remaining companies, MCI and American Cyanamid, the number of workers actually rose from 1978 to 1979. 14/ Although producers' inventories increased substantially from 1976 to 1978, they dropped in 1979 to less than half the level for the previous year. 15/

11/ Statement of ECON, Inc., Economic Impact Analysis Report to the United States International Trade Commission in the Matter of the Importation of Melamine in Crystal Form: Investigation Number 731-TA-13, March 28, 1980, p. 22.

12/ Transcript at 265-270.

13/ See note 12 *supra*.

14/ Id. at A-33, 35, and 36, table 12.

15/ *Id*. at A-33-34, table 11.

Aside from Allied, the domestic producers have demonstrated healthy profit levels in the aggregate. Furthermore, evidence was introduced in the hearing that MCI's profits through 1979 were not only large but also increasing. [16] MCI, however, indicated that its profits for the second half of 1979 decreased sharply. However, LTFV imports of melamine also fell sharply in 1979 and therefore cannot be regarded as a cause of MCI's low profits during July-December 1979. [17] Indeed, MCI is in the process of expanding its capacity by 10 million pounds within the next few months through "debottlenecking" and it may have plans for additional facilities in the future. [18] Lost sales data provide a mixed indicator. However, lost sales verification by Commission staff revealed that purchasers' need for alternative sources of supply and their fear that MCI could not meet its shipment obligations on a timely basis were mentioned as more important factors than price considerations. [19]

Conclusion

We therefore conclude that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of melamine in crystal form from Austria and Italy, which the Department of Commerce has found are being sold at less than fair value.

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[16] Transcript at 240.
[17] Id. at A-36-41.
[18] Transcript at 57-58.
[19] Id. at A-63-65.

ADDITIONAL VIEWS OF COMMISSIONER PAULA STERN ON THE SCOPE OF THE DOMESTIC INDUSTRY

Because of American Cyanamid's multi-faceted character, the petitioner, MCI, asserts that it should be regarded as part of the domestic industry only to the extent that it produces for the domestic merchant market. 1/ In its prehearing brief, MCI quoted section 771(4)(B) of the Act:

> (B) RELATED PARTIES.--When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term "industry" may be applied in appropriate circumstances by excluding such producers from those included in that industry.

According to MCI, the Commission has discretion to exclude American Cyanamid from the domestic industry because it also imports melamine. MCI's advice, however, is neither to exclude American Cyanamid entirely nor to include it entirely. Rather, MCI suggests that American Cyanamid's production for its captive market be excluded but its production for the domestic merchant market be included. 2/

MCI's agurment raises two very distinct questions. First, is it appropriate to exclude American Cyanamid from the domestic industry under section 771(4)(B) because it both produces and imports melamine?

Section 771(4)(B) does imply a large measure of latitude for the Commission in its application. And the legislative history underscores this broad latitude by specially mentioning the Commission's "discretion." 3/ 4/

1/ Prehearing Statement of Melamine Chemical, Inc., Investigations Nos. 731-TA-13 and 14 (Final), pp. 11-12

2/ Transcript of Commission Hearing, Inv. Nos. 731-TA-13 and 14 (Final), p. 70.

3/ S. Rep. No. 96-249, 96th Cong. 1st Sess. 83 (1979).

4/ Cf., Unlasted Leather Footwear Uppers from India, Inv. No. 701-TA-1 (Final); (In that subsidy case the Commission declined to apply section 771 (4)(B) when that would have excluded several of the more important firms of the industry. at 405.)

Applying discretion to the instant case, I conclude that it is appropriate to include American Cyanamid in the group of domestic producers on which the impact of imports is to be measured. Since American Cyanamid is one of only two surviving domestic producers of melamine and has significant merchant market sales, its absence would severely distort our perception of the domestic industry. By recognizing American Cyanamid's hybrid nature as both an importer and a producer, I am able to place its profit and sales statistics in proper perspective.

The second question posed is whether to exclude from Commission calculations of the domestic industry that portion of American Cyanamid's production which is for captive consumption.[5] Melamine produced by American Cyanamid for its own use does not compete directly on the open market with other melamine. However, some of the data in this investigation do not discriminate between captive and merchant market production. [6] I have borne in mind that American Cyanamid in internal transfers may skew, for example, its profit and sales statistics.

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[5] This question in no way pertains to the fact that American Cyanamid is both a producer and an importer.

[6] Staff Report to the Commission, Inv. Nos. 731-TA-13 and 14 (Final), pp. A-43-46, tables 15-18.

Statement of Reasons of Commissioners Bill Alberger and Michael J. Calhoun

On the basis of the record in investigations Nos. 731-TA-13 (Final) and 731-TA-14 (Final), we determine, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d), that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry materially retarded 1/ by reason of imports of melamine, in crystal form, from Austria and/or Italy which are sold or are likely to be sold at less than fair value (LTFV) as determined by the Department of Commerce (Commerce). 2/

In these investigations, the relevant domestic industry is comprised of the facilities in the United States devoted to the production of melamine, in crystal form. Melamine is currently produced in the United States by two companies: Melamine Chemical, Inc., the petitioner, and American Cyanamid Co. These two companies produce melamine by a process using a urea-based, continuous process technology which permits the off gases ammonia and carbon dioxide to be effectively recycled. Production difficulties have occurred at both the MCI and American Cyanamid facilities during the 1976-79 period. During these downtimes, however, the domestic market for melamine was supplied from inventories.

Until the end of 1978, Allied Chemical Corp. was also a manufacturer of melamine in the United States. Allied produced melamine from 1962 to December

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1/ Since melamine is produced by two firms in the United States, the establishment of an industry is not at issue in these investigations and will not be discussed further.

2/ On March 13, 1980, the Commission instituted an investigation on melamine, in crystal form, from the Netherlands upon notice from Commerce of its preliminary affirmative determination of LTFV sales. The Commission heard testimony at the hearing held April 11-12, 1980, with respect to all three investigations. Subsequently, on April 25, 1980, Commerce issued a final negative determination that melamine from the Netherlands was not being sold at LTFV. Therefore, the Commission's investigation with respect to the Netherlands was terminated.

of 1978 using its own process technology and its own internally produced feedstock urea. Ammonia was also produced at Allied's facility. The process used by Allied did not permit the recycling of off gases as did that used by the other manufacturers in the domestic industry. The chief reasons cited by company representatives for the shutdown included aging plant and equipment and the inability to profitably produce ammonia and urea feedstock. Imported melamine sold at less than fair value was not stated as the reason for Allied's shutdown. After Allied closed, it continued to sell melamine from inventories into early 1979. Although Allied's production of melamine continually decreased and sales declined since 1976, it continued to operate profitably, although at decreasing levels, until it closed in 1978.

In mid-1979, Allied sold its facilities to Ashland Oil. This sale included plant, equipment, and land, but there was no transfer of Allied's melamine or production technology. There is no indication that Ashland Oil intends to begin production of melamine in the near future, and such production could require considerable capital investment.

MCI claims 1/ that American Cyanamid should be partially excluded from the domestic industry as to production of melamine for its captive market and included only as to its production for the domestic merchant market. MCI cites section 771(4)(B) of the Act 2/ as the authority under which the Commission has discretion to allow such exclusion and points out that the legislative history supports such view. 3/ This claim by MCI presents two issues, however: 1) the exclusion of a producer as a related party as defined in section 771(4)(B) and 2) the discretion of the Commission to exclude that portion of the domestic industry which is captively consumed by a producer. Excluding American Cyanamid as a related party

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1/ Prehearing Statement of MCI, pp. 11-12.

2/ Section 771(4)(B) provides that--
"When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term 'industry' may be applied in appropriate circumstances by excluding such producers from those included in that industry."

3/ Senate Report No. 96-249 (96th Cong., 1st sess.), 1979, p. 83.

is inappropriate as it is a major supplier of U.S.-produced melamine to the open market.

In our opinion, excluding American Cyanamid's production for captive consumption presents the best possible situation for the case presented by petitioner. When the factors are considered in the light most favorable to the petitioner, there is no material injury or threat thereof. Even if captive consumption were included, there would be no finding of material injury or threat thereof.

During the period 1976-78, U.S. production of melamine declined by 16 percent; in the first eleven months of 1979, the production further declined to a level below that for the same period in 1978. Apparent U.S. merchant market consumption fluctuated during the period with 1976 and 1978 being the peak years.

Official statistics 1/ show that imports of melamine from Italy began in 1977 and rose to 6 million pounds in 1978, but then fell below 1.5 million pounds for the first 11 months of 1979. Imports from Austria amounted to 579,000 pounds in 1976, rising to 3 million pounds in 1978 and then falling to 2 million pounds for the first 11 months of 1979. In comparison to total U.S. production, Austrian imports never reached 3 percent during the 1976-78 period and those for Italy increased to just over 5 percent of domestic production in 1978. For the first eleven months of 1979, the market shares for imports from Austria and Italy were substantially below the same period in 1978. The ratio of imports from Italy to U.S. merchant market sales climbed to 0.4

1/ With only two firms comprising the domestic industry, Commission rules prevent the disclosure of information which would reveal the industry's operations. Therefore, specific data regarding the operations of the domestic industry which are not part of the public record will not be discussed in this opinion. In order to present as much information as possible, we have used official statistics.

percent in 1977 to over 7 percent in 1978; the percentage for the first eleven months of 1979, however, dropped to less than a third of that figure. Austria held under 4 percent of the U.S. merchant market consumption in 1978, but its share also declined substantially in 1979.

Throughout the time of decreased production, decreasing consumption, and increasing imports, the domestic industry's total sales continually increased and profits remained at consistently high levels. The market formerly held by Allied was diverted, in part, to MCI and American Cyanamid, accounting for a portion of their increased sales. Net operating profits for MCI increased steadily with a consistently high ratio to net sales since 1976. Although the financial experience of American Cyanamid showed losses, this can largely be attributed to their accounting procedures and internal transfers made at cost.

Sections 771(7)(B) and (C) of the Act require the consideration of the volume of imports, their effect on domestic prices, and their impact on domestic producers of a like product using the guidelines of certain specific economic factors. The following are our findings based on the record in these investigations.

Findings of Fact

A. Volume of imports

1. Imports of melamine from Italy, as reported in official statistics, rose from zero in 1976 to 263,000 pounds in 1977, 6 million pounds in 1978, and fell from 5.6 million pounds in January-November 1978 to 1.5 million pounds for the same period of 1979. Imports of melamine from Austria were 579,000 pounds in 1976, 2.2 million pounds in 1977, 3 million pounds in 1978, and fell from 2.7 million pounds in January-November 1978 to 2 million pounds for that period of 1979. Questionnaire statistics differ from those reported by Commerce but follow the same trends. (Report at A-31, Table 9)

2. Based on the questionnaire responses, sales by importers of melamine from Austria and Italy show a peak level in 1978 but declined sharply in January-November of 1979. (Report A-32, Table 10)

3. The ratio of imports of melamine from both Italy and Austria to U.S. merchant market consumption increased from 1976 to 1978 but fell sharply in 1979. Although those data are confidential, the ratio of imports to domestic producers' merchant sales are similar, they never reached above 4 percent for Austria or 8 percent for Italy in any year. The ratio of imports from these two countries to total U.S. production followed the same trend. (Report at A-31, Table 9; A-43, Table 15; and A-44, Table 16)

B. Effect of imports on U.S. prices

4. Austrian melamine was priced competitively with the domestic product in each of the years investigated except 1977, when a margin of underselling of more than a cent per pound occurred. (Report at A-56; Table 22)

5. Italian melamine was priced by more than a cent per pound below domestic melamine during the period November 1977-March 1979, but was priced competitively with the domestic product for the balance of 1979. (Report at A-57; Table 23)

6. The margins of underselling by Austrian and Italian melamine of the domestic product were more than accounted for by the LTFV margins found by Commerce. (Report at A-48)

7. Melamine prices have increased at an average annual rate of 4 percent since 1976, roughly paralleling recent trends of other industrial chemical and resins operations. (Report at A-62; Figure 6)

C. Impact on domestic producers of the like product

8. Total U.S. production of melamine declined steadily from 1976 to 1979. Much of the decline is due to the difficulties suffered by Allied. MCI, however, has increased production since 1977 and although production at American Cyanamid has trended downward through 1978, the first eleven months of 1979 show increases for that firm. The domestic industry's total market share has steadily remained above 75 percent. (Report A-21-22; Tables 5 and 17)

9. Total U.S. producers' open-market sales (including export sales) declined from 1976 to 1979. But combined sales of American Cyanamid and MCI rose sharply in 1979 after Allied ended production. (Report A-25)

10. Total domestic production capacity as well as capacity utilization declined from 1976 to 1979, primarily owing to the shutdown of Allied's facilities in 1978. MCI has reported that it intends to increase its capacity and may plan further expansion in the future. (Report A-21-25, Table 5 and Transcript pp. 57-58)

11. The industry's total profits declined since 1976 with a slight increase in the period January-November 1979. However, within the industry, MCI reported substantially increasing profits throughout the period. Allied continued to operate profitably until it closed in 1978 and American Cyanamid reported losses in every year except 1977 (these reported losses are attributed to accounting procedures employed by American Cyanamid and their internal transfers of melamine); the financial experiences of these two companies combined account for the declining profits of the whole industry. Although there are declining profit trends, the profits have remained at a consistently high level. (Report A-36-39, Table 13)

12. Total domestic end-of-period inventories more than doubled from 1976 to 1978, but then returned to the 1976 level in 1979. MCI had considerable inventories built up in 1978, however, with the closing of Allied, substantial sales were made from inventories to meet demand in 1979, accounting for the reduced inventory in that year. (Report A-33; Table 11)

13. Domestic workers involved in melamine production rose from 207 in 1976 to 223 in 1978, but the total number of workers declined in 1979. The number of production and related workers at MCI and American Cyanamid increased from 1978 to 1979. The total number of person-hours worked by production and related workers in the production of melamine followed the same trend. (Report A-33-36; Table 12)

14. Apparent U.S. consumption and U.S. merchant market consumption fluctuated during the 1976-79 period with peak consumption in 1976 and 1978. (Report Tables 17 and 18)

15. The return on investment experienced by the domestic industry generally trended downward in the period 1976-January-November 1979, whether considered as a ratio of net operating profit to the original cost, book value, or replacement cost of net fixed assets. (Report at Table 14)

16. No information has been provided to the Commission regarding wages, cash flows, and the ability to raise capital.

Conclusions of Law

A. The domestic melamine industry consists of those facilities in the United States devoted to the production of melamine for the merchant market.

B. Excluding American Cyanamid's production for captive consumption presents the best possible situation for the case presented by petitioner, however, the consideration of the effect of LTFV imports on a domestic industry which included American Cyanamid's captively consumed melamine would not have changed the outcome of these investigations.

C. Upon assessing the impact of imports of melamine from Austria and Italy, both separately and in combination, we conclude that the domestic melamine industry is not materially injured or threatened with material injury by reason of imports of melamine from these countries which Commerce has determined are being or are likely to be sold at LTFV.

[redacted]

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

Section 102(b)(2) of the Trade Agreements Act of 1979 requires the United States International Trade Commission to conduct final antidumping investigations when, as of the effective date of title VII of the Tariff Act of 1930 (January 1, 1980), as added by the Trade Agreements Act of 1979, the Secretary of the Treasury had made a preliminary affirmative determination, but not a final determination, under the Antidumping Act, 1921, with regard to the question of sales at less than fair value (LTFV).

On January 7, 1980, the Commission received notification from the Department of Commerce that, as of January 1, 1980, the Treasury Department had made such preliminary affirmative determinations, but no final determinations, with regard to melamine imported from Austria and Italy. 1/ Consequently, the Commission on January 8, 1980, but effective on January 1, 1980, instituted antidumping investigations Nos. 731-TA-13 (Final) and 731-TA-14 (Final) pursuant to section 735 of the Tariff Act of 1930, as added by title I of the Trade Agreements Act of 1979, to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of melamine in crystal form, provided for in item 425.10 of the Tariff Schedules of the United States (TSUS), from Austria and Italy, which are being, or are likely to be, sold at less than fair value.

The antidumping statute, as amended by the Trade Agreements Act of 1979, requires that these investigations be completed before the later of (a) the

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1/ A copy of Commerce's transmittal letter to the Commission is presented in app. A.

[redacted]

120th day after January 1, 1980, or (b) the 45th day after the day on which the administering authority makes its final affirmative determination. Because the administering authority made its final determination in the investigations on imports from Italy on March 20, 1980, and on imports from Austria on March 21, 1980, the statutory deadline in these investigations is May 5, 1980. [1]

On February 26, 1980, the Department of Commerce published in the Federal Register notice of its preliminary affirmative determination of LTFV sales of melamine from the Netherlands despite a tentative negative LTFV sales determination with regard to melamine from the Netherlands made by the Department of the Treasury prior to January 1, 1980. Accordingly, on March 13, 1980, the Commission instituted antidumping investigation No. 731-TA-16 (Final), pursuant to section 735(b)(2) of the Trade Agreements Act of 1979, to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of melamine in crystal form, provided for in TSUS item 425.10, from the Netherlands which are being, or are likely to be, sold at less than fair value. The statutory deadline for reporting the Commission's determination to the Department of Commerce with respect to imports of melamine from the Netherlands was June 24, 1980, based on the date of Commerce's preliminary determination. However, the Commission combined its investigation with respect to imports from the Netherlands with its previously instituted investigations of imports of melamine from Austria and Italy and was scheduled to report its findings in all three investigations to the Department of Commerce by May 5, 1980. Because Commerce made a revised final determination of no LTFV sales from the Netherlands on April 25, 1980, however, investigation No. 731-TA-16 regarding melamine from the Netherlands was automatically terminated. The Commission is now scheduled to report its findings with respect to imports from Austria and Italy only, by May 5, 1980.

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[1] Commerce's notices of its final determinations with respect to melamine from Austria, Italy, and the Netherlands are presented in app. B.

In connection with these three investigations, a public hearing was held in Washington, D.C., on April 11, 1980. Notice of the investigations and public hearing with regard to melamine from Austria and Italy was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York City Office and by publishing the notice in the Federal Register of January 17, 1980 (45 F.R. 3401). 1/ Notice of the investigation and public hearing with regard to melamine from the Netherlands was similarly given by posting copies of the notice at the Secretary's Office in Washington and at the New York City Office and by publishing the notice in the Federal Register of March 17, 1980 (45 F.R. 17096). 2/

The Treasury Department instituted its investigations of LTFV sales of melamine from Austria, Italy, and the Netherlands after receiving a properly filed complaint on March 23, 1979, from counsel acting on behalf of Melamine Chemicals, Inc., Donaldsonville, La. Treasury's notice of withholding of appraisement and tentative affirmative determinations of LTFV sales of melamine imported from Austria and Italy were published in the Federal Register of November 13, 1979 (44 F.R. 65515-17). 3/ Also on November 13, 1979, Treasury published in the Federal Register (44 F.R. 65517) a notice of a tentative negative determination with respect to imports of melamine from the Netherlands because preliminary dumping margins found on melamine from the Netherlands had been determined to be de minimis. 4/ On January 1, 1980, the effective date of title VII of the Tariff Act of 1930, the authority for administering the antidumping statute was transferred

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1/ A copy of the Commission's notice of investigation and hearing with respect to melamine from Austria and Italy is presented in app. C.

2/ A copy of the Commission's notice of investigation and hearing with respect to melamine from the Netherlands is presented in app. D.

3/ Treasury's notices of its tentative determinations with respect to melamine from Austria and Italy are presented in app. E.

4/ Treasury's notice of its tentative determination with respect to melamine from the Netherlands is presented in app. F.

[redacted]

from the Secretary of the Treasury to the Secretary of Commerce and preliminary or tentative determinations made prior to that date by the Secretary of the Treasury were deemed to have been made under the new statutory provisions as of January 1, 1980.

On February 26, 1980, the Commerce Department announced that it had recalculated the margins with regard to melamine from the Netherlands and had found that LTFV margins were no longer de minimis. Accordingly, in the Federal Register of February 26, 1980 (45 F.R. 12466), Commerce announced that it had changed Treasury's tentative negative determination to a preliminary affirmative determination and had instructed customs officers to suspend liquidation of import entries effective February 26, 1980. 1/

The Commerce Department made its final affirmative LTFV determination with respect to melamine from Italy on March 20, 1980, and made its final determinations with respect to melamine from Austria and the Netherlands on March 21, 1980. On April 15, 1980, Commerce notified the Commission by letter that the final affirmative LTFV determination made by Commerce on March 21, 1980, with respect to the Netherlands, had been incorrect, and that, based on clarification of certain facts not previously considered, Commerce was amending its determination to a final determination of sales at not less than fair value. However, on April 16, 1980, Commerce notified the Commission by letter that its original final affirmative LTFV determination with respect to the Netherlands would stand despite its letter of April 15, 1980, to the Commission. Commerce held a conference with the

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1/ Commerce's notice of its preliminary affirmative determination with respect to melamine from the Netherlands is presented in app. G.

petitioner and respondents concerning this matter on April 21, 1980. A final negative determination was made on April 25, 1980. [1]

Melamine in crystal form from Japan was the subject of an earlier U.S. International Trade Commission antidumping investigation. In that investigation--No. AA1921-162 [2]--the Commission determined by a vote of 3 to 3 that an industry in the United States was being injured and was likely to be injured by reason of the importation of melamine in crystal form from Japan that was being, or was likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921. Pursuant to section 201(a) of the Antidumping Act, 1921, the Commission was deemed to have made an affirmative determination if the Commissioners voting were evenly divided as to whether its determination should be affirmative or negative.

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[1] Commerce's letters of April 15, 1980, and April 16, 1980, to the Commission are presented in app. H and I, respectively. Commerce's final negative determination with respect to melamine from the Netherlands is presented in app. J.

[2] Melamine in Crystal Form From Japan. . ., USITC Publication 796, December 1976.

[redacted]

Information and Allegations Contained in the Petition 1/

Melamine Chemicals, Inc. (MCI), a Delaware corporation with offices and production facilities at Donaldsonville, La., initially wrote to the Commissioner of Customs on February 21, 1979, alleging that melamine manufactured in Austria, Italy, and the Netherlands was being sold in the United States at LTFV prices. This letter along with additional information provided by counsel on behalf of MCI constituted a petition deemed to have been properly filed with Customs on March 23, 1979. The petitioner did not contact either of the other two domestic producers in connection with the filing of the complaint.

MCI was formed in 1968 as a joint venture by Ashland Oil, Inc., and First Mississippi Corp., each of which owns 50 percent of the capital stock. MCI has manufactured melamine at its Donaldsonville plant since 1971. The petition alleged that after Treasury's affirmative finding of dumping on January 27, 1977, with regard to imports from Japan, producers in Austria, Italy, and the Netherlands began disposing of their excess melamine production in the United States at prices below those in either the United States or the manufacturers' home markets, with imports increasing from 2.5 million pounds in 1976 to 26.9 million pounds in 1978. During the period of increased imports, MCI alleged, "domestic prices have been suppressed, domestic production has not increased, sales have flattened, and inventories have grown." Finally, the petition continued, Allied Chemical Corp., one of three domestic producers, terminated its production of melamine on January 1, 1979, citing as the reason "depressed market prices which have prevailed for some time." MCI alleged that the preceding situation

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1/ A copy of MCI's letter of Feb. 21, 1979, to the Commissioner of Customs, is presented in app. K.

indicates that the domestic industry has been injured and that the injury to the domestic industry has been caused by sales at less than fair value.

Nature and Extent of Sales at LTFV

The Commerce/Treasury LTFV investigations with regard to melamine from Austria was based on an examination of imported melamine from the sole producer in Austria--Chemie Linz A.G.—for the 5-month period November 1, 1978, to March 31, 1979. The Commerce/Treasury investigation with regard to Italy was based on examination of sales from the sole producer in Italy--Montedison S.p.A.--for the 6-month period November 1, 1978, to April 30, 1979. For both Austria and Italy, comparisons were made between the U.S. purchase prices and the respective home-market prices on 100 percent of sales to the United States during the period of investigation.

For the purposes of Commerce's determination of LTFV sales from Austria and Italy, the U.S. purchase prices were calculated on the basis of the c.i.f., duty-paid prices to unrelated U.S. customers. Deductions were made for ocean and U.S. inland freight, marine insurance, brokerage fees and commissioners, the U.S. tariff, and foreign inland freight (where applicable). Home-market prices (fair values) were calculated on the basis of the weighted average price in the home markets to unrelated purchasers. Adjustments were made for inland freight, differences between packing costs, and certain home-market expenses as offsets to commissions on U.S. sales.

Commerce found LTFV margins on 100 percent of the transactions examined with respect to Austria and Italy. The LTFV margins found for Austria ranged from 7.76 to 27.53 percent, with a weighted average of 12.16 percent; the margins calculated by the Commission for Austria ranged from 7.2 to 23.1 percent, with a weighted average of 10.8 percent. [1] Commerce's LTFV margins for Italy ranged from 15.2 to 34.4 percent, with a weighted average of 31.05 percent. As calculated by the Commission, margins for Italy ranged from 13.2 to 25.8 percent, with a weighted average of 23.7 percent.

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[1] Percentage dumping margins are calculated as follows:

Commerce formula: $$\frac{\text{Margin}}{\text{Purchase price (or exporters' sales price)}} \times 100\%$$

Commission formula: $$\frac{\text{Margin}}{\text{Home-market price (fair value)}} \times 100\%$$

[redacted]

A summary of the data found in the Commerce/Treasury investigations is presented in table 1.

The Product

Description and uses

Melamine (2,4,6-triamino-sym-triazine) is a fine white crystalline material containing less than 0.2 percent impurity. Virtually all melamine produced in the United States and abroad is consumed in the manufacture of melamine-formaldehyde resins; consumption of the resins determines demand for the crystals. U.S. consumption of melamine-formaldehyde resins in 1978, by end uses, was estimated as follows: high-pressure laminates, 29 percent of the total; molding compounds, 26 percent; surface coatings, 25 percent; paper treating and paper coating, 5 percent; textile treating and textile coating, 5 percent; and other (including adhesives), 10 percent.

Typical of the uses of high-pressure laminates are decorative countertops, furniture and cabinet panels, tabletops, and partitions in commercial buildings. Competition in this market comes from acrylic, diallyl phthalate, and unsaturated polyester resins, and from polyvinyl-chloride-impregnated fabric, but melamine resins products are considered to be superior in combining appearance with resistance to abrasion, heat, and staining.

More than 90 percent of all melamine-formaldehyde molding compounds are consumed in the manufacture of dinnerware varying in quality from picnic disposables to advanced-state-of-the-art products which compete with fine chinaware. Other molded products include ashtrays, automotive distributor caps, buttons, school and office furniture, and toilet seats.

[redacted]

Table 1.--Melamine: Summary of LTFV sales examined by Treasury/Commerce

Country and firm	Basis of LTFV comparison 1/	Percentage of value of exports to United States examined by Commerce	Percentage of value of exports found to be sold at LTFV
	--Percent--		
Austria:			
Chemie Linz A.G-----	1/	100	100
Italy:			
Montedison S.p.A----	1/	100	100

Country and firm	Estimated LTFV margins-- As a share of exporters' sales price or purchase price 2/		As a share of home-market price (fair market price) 3/		Period of investigation
	Range	Weighted average	Range	Weighted average	
	--Percent--				
Austria:					
Chemie Linz A.G-----	7.76-27.53	12.16	7.2-23.1	10.8	Nov. 1, 1978-Mar. 31, 1979
Italy:					
Montedison S.p.A----	15.2-34.4	31.05	13.2-25.8	23.7	Nov. 1, 1978-Apr. 31, 1979

1/ Purchase price versus home-market price.
2/ As calculated by the Treasury and Commerce Departments.
3/ As calculated by the U.S. International Trade Commission.

Source: Compiled from data in the Treasury/Commerce file.

Surface-coating applications constitute the greatest potential growth market for melamine in the next few years, with consumption predicted to outstrip that in either laminates or molding compounds. Surface-coating resins differ from laminating and molding resins in that they are further treated with additional chemicals. The resulting product is soluble in organic solvents and thus is suitable for use in appliance finishes, automotive topcoats, metal furniture finishes, and beverage can coatings.

Paper-treating and paper-coating applications include imparting wet-rub resistance, wet and dry strength, and stiffness to paper stock. Textile-treating and textile coating resins are used primarily to impart wrinkle-resistance to cotton and cotton/synthetic blends; they are also used in mildew-proofing and water-repellency applications, dye fixatives, and as a binder for fire retardants, pigments, and latex backings. Other applications include adhesives in wood products (about 6 percent of total melamine consumption), leather-tanning agents, tire cord adhesives, fluorescent pigments, cross-linking agents for epoxy resins, plaster of paris fortification, and ion-exchange resins.

There are two basic commercial processes for producing melamine: (1) the urea process and (2) the dicyandiamide process. However, about 90 percent of world production has been converted to the more economical urea process, with the remaining 10 percent expected to follow eventually. The advantages of the urea process include lower production costs, more readily available raw material (urea), and recyclable byproducts.

Both U.S. producers employ a urea-based technology originally licensed from NV Nederlandse Staatsmijnen--Dutch State Mines (DSM). The DSM process

[redacted]

(also called the Stamicarbon process) is a continuous process that requires little change in manpower with variations in the level of output. A highly simplified net reaction for the process is summarized as follows:

$$\text{urea} \xrightarrow[\substack{\text{6-8 atmospheres} \\ \text{catalyst}}]{\text{330-450°C}} \text{melamine + ammonia + carbon dioxide}$$

Ammonia and carbon dioxide off gases are evolved in quantities roughly equivalent to that of melamine vapor; thus the process is most economically undertaken in conjunction with urea manufacture, which permits the off gases to be usefully recycled. With the recycle step (which both U.S. producers employ), the quantity of urea necessary to produce 1 pound of melamine is reduced by about 50 percent. The melamine vapor is separated, cooled to liquid, filtered, recovered by crystallization, centrifuged, dried, pulverized, and stored for later shipment.

U.S. tariff treatment

Imports of melamine are provided for under item 425.10 of the Tariff Schedules of the United States, at a column 1 (most-favored-nation) duty rate of 5 percent ad valorem. This rate of duty has been in effect since January 1, 1972, when the last stage of a five-stage reduction resulting from a U.S. concession granted in the Kennedy round of trade-agreement negotiations became effective. Prior to the initial Kennedy round staged reduction (January 1, 1968), the rate of duty had been 10.5 percent ad valorem. Concessions granted by the United States in the Tokyo round of Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade (GATT), will result in eight staged reductions in the column 1 rate of duty, the first of which will occur on the effective date of the Agreement on Implementation of Article VII of the GATT or earlier (possibly

[redacted]

July 1, 1980). The second staged reduction will occur 6 months later, and the final six stages will be annual. The first reduction will be to 4.8 percent ad valorem, with the final concession rate being 3.5 percent ad valorem. The column 2 rate of duty, applicable to imports from certain designated Communist-dominated countries, is 25 percent ad valorem. Under the Generalized System of Preferences, all imports of melamine from designated beneficiary developing countries are eligible for duty-free treatment.

The Domestic Industry

U.S. producers

Three companies produced melamine in the United States between January 1, 1976, and November 31, 1979. Two of the companies, Allied Chemical Corp. and American Cyanamid Co., are large horizontally diversified and vertically integrated chemical companies. The third company, Melamine Chemicals, Inc., is a 50-50 joint venture of First Mississippi Corp. and Ashland Oil (a large horizontally diversified petroleum and chemical company). The companies and their estimated annual production capacities are listed in table 2.

MCI.--The complainant, MCI, has produced melamine at its plant in Donaldsonville, La., since 1971; melamine is its only product. MCI purchases feedstock urea and ammonia under a long-term contract through First Mississippi Corp. from Triad Chemical Co., a joint venture of First Mississippi and Mississippi Chemical Co.

MCI utilizes DSM technology, having previously obtained a licensing agreement with DSM. Although MCI's plant was designed by DSM to produce * * * pounds per year, it was not until several years after

[redacted]

Table 2.--Melamine: U.S. production capacity, by firms, 1976-78, January-November 1978, and January-November 1979

Year and firm	Nameplate capacity		Practical rated capacity	
	Quantity	Percent of total	Quantity	Percent of total
	Million pounds		Million pounds	
1976:				
Allied	***	***	***	***
American Cyanamid	***	***	***	***
MCI	***	***	***	***
Total	176.0	100	159.5	100
1977:				
Allied	***	***	***	***
American Cyanamid	***	***	***	***
MCI	***	***	***	***
Total	170.0	100	147.0	100
1978:				
Allied	***	***	***	***
American Cyanamid	***	***	***	***
MCI	***	***	***	***
Total	164.0	100	148.0	100
Jan.-Nov. 1978:				
Allied	***	***	***	***
American Cyanamid	***	***	***	***
MCI	***	***	***	***
Total	150.4	100	136.1	100
Jan.-Nov. 1979:				
Allied	1/	1/	1/	1/
American Cyanamid	***	***	***	***
MCI	***	***	***	***
Total	***	100	***	100

1/ Allied discontinued production of melamine as of Jan. 1, 1979.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--In its prehearing brief, DSM, at page 2, suggested that the practical rated capacity data shown in this table is incorrect. DSM did not provide the basis of its allegation. The data shown in this table are taken directly from questionnaire responses which indicated the quantity of melamine that could be produced by the facilities in question, assuming 24-hour-a-day, 7-day-a-week operation, allowing for normal maintenance and downtime, on an annual basis.

[redacted]

construction and startup that the plant could operate at its designed level. In the early years the plant sustained a substantial amount of downtime, and the melamine produced reportedly was often contaminated with materials used in the process (e.g., catalyst and filter aid). Virtually every portion of the plant required modification; some sections even required complete redesign. MCI filed a $40 million lawsuit against DSM for fraud with an additional $40 million in punitive damages. An out-of-court settlement, the complete details of which are not known, was eventually negotiated. 1/ MCI recently increased its plant capacity by * * * pounds per year by debottlenecking, and it is prepared for further expansion, should the need arise. 2/

MCI produced an estimated * * * pounds of melamine in 1979 and sold * * * pounds, valued at * * * that year. * * * .

All of MCI's production was intended for sale on the merchant market, usually directly to end users. 3/

American Cyanamid.--American Cyanamid, headquartered in Wayne, N.J., has operated its melamine plant in Fortier, La., since shortly after MCI began producing in 1971. From 1964 through 1971, American Cyanamid produced melamine of Wallingford, Conn.; prior to 1964, American Cyanamid had also produced melamine at Willow Island, W. Va. American Cyanamid's Fortier plant, also using DSM technology, is virtually identical to that of MCI,

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1/ * * * .

2/ According to the prehearing brief filed on behalf of DSM, at page 2, the MCI capacity expansion is expected to total 10 million pounds by July 1980 and is only part of a larger capacity expansion program.

3/ The merchant market includes arms-length transactions with unrelated parties, as well as export sales to unrelated parties.

[redacted]

having a nameplate capacity of * * * pounds per year. American Cyanamid also experienced startup problems similar to MCI's. 1/ However, American Cyanamid's output prior to 1973 was sharply limited by a consent decree which prohibited the firm from producing more than 30 million pounds of melamine per year. The order, issued in the U.S. District Court for the Southern District of New York in 1964 resulting from a 1960 action brought against American Cyanamid by the Justice Department, was modified to allow American Cyanamid to produce 44 million pounds in 1973, and again in 1974 to allow it to produce 50 million pounds during January-October 1974. After October 1974, the production restrictions were lifted, and there has been no legal barrier on American Cyanamid's production of melamine since that time. The 1964 ruling, however, has a continuing impact in that it ordered American Cyanamid to divest itself of its Willow Island, West Va., melamine plant and enjoined American Cyanamid from acquiring any businesses engaged in the production of melamine for a period of 20 years. 2/

American Cyanamid produced about * * * pounds of melamine in 1979, but is merchant sales amounted to only * * * pounds (*** percent of production), valued at * * * that year. The remainder was retained for captive use in its Industrial Chemicals Division, its Organic Chemicals Division, and its subsidiary, Formica Corp., a large producer of high-pressure laminates. American Cyanamid is one of the largest purchasers of melamine from domestic sources and is probably the largest U.S. purchaser of melamine imported from the Netherlands.

1/ American Cyanamid also brought suit against DSM in an action separate from MCI's. Details of its settlement with DSM in 1977 are not available.

2/ See prehearing brief on behalf of Montedison S.p.A. and Montedison USA, Inc., at pages 16 and 58.

[redacted]

Allied.--Allied Chemical Corp. is headquartered in Morristown, N.J. Allied produced melamine at its South Point, Ohio, facility from 1962 through 1978, using its own process technology and its own feedstock urea from an integrated unit. Unlike the DSM processes used by MCI and American Cyanamid, Allied's was a high-pressure process * * * .

Allied's plant also included production facilities for ammonia (like urea, a feedstock for melamine), formaldehyde, carbon dioxide (a byproduct of melamine production), and urea-formaldehyde concentrate. The melamine, urea, and ammonia portions were shut down in December 1978, but sales of melamine from inventory continued for a few months thereafter. In mid-1979 the entire South Point facility was sold to Ashland Oil. The sale involved real estate, plant, and equipment, but there was no transfer of Allied's melamine or other production technology. As of April 1980, the South Point plant remains idle.

According to evidence submitted in DSM's prehearing brief, the South Point plant suffered a loss of much of its equipment prior to its final sale to Ashland, as Allied cannibalized the equipment for other uses, making it impractical (without large capital expenditures) to place the plant back into the production of melamine. However, in testimony before the Commission, the petitioner stated that the South Point can indeed be reopened for melamine production. DSM's witness 1/ at the hearing admitted that Allied's "cannibalization" may have been limited to only the ammonia/urea portions of the plant. Nevertheless, DSM held that Allied's plant

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1/ Mr. George Schwartzwelder, former Coordinator of Trade Act Issues for Allied Chemical Corp., currently retained as consultant for DSM in this investigation.

had been designed to run on Allied's patented process technology, which was not transferred to Ashland Oil as part of the sale, and that as a result, the plant could not be expected to resume melamine production without extremely large expenditures on research and development and/or capital expenditures to adapt the plant to the DSM process. For further information on the current status of the South Point facility, see page A-24.

Before discontinuing operations (i.e., during 1976-78), Allied accounted for * * * percent of total U.S. production (tables 3 and 4); American Cyanamid accounted for * * * percent of the total; and MCI, for * * * percent. * * * . American Cyanamid consumed more than *** percent of its production captively during the period. Following Allied's shutdown at the end of 1978, MCI's share of U.S. producers' sales increased to *** percent, while American Cyanamid's share increased to *** percent. Allied's sales (from inventory) accounted for *** percent of the total in 1979.

Demand for melamine in end-use markets

The average annual growth of melamine consumption in the United States is expected to be 3.5-5.0 percent through 1984, equal to the expected consumption growth for melamine-formaldehyde resins. The major factor in expected growth is the surface coatings market, which is projected to expand (for melamine) at least 5 percent a year. Growth in laminates and molding compounds markets is forecast at only 3.5 percent a year, because of increasing competition from substitute resins and other materials.

Table 3.--Melamine: U.S. production and sales, by firms, 1976-78, January-November 1978, and January-November 1979

Firm	1976	1977	1978	January-November-- 1978	January-November-- 1979
	Production (1,000 pounds)				
Allied	***	***	***	***	1/
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	135,933	122,948	113,633	103,238	***
	Sales quantity (1,000 pounds)				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	93,997	74,452	76,349	71,521	***
	Sales value (1,000 dollars)				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	30,983	27,020	27,606	26,799	***

1/ Allied discontinued production as of Jan. 1, 1979.

Source: Compiled from data received in response to questionnaires of the U.S. International Trade Commission.

Table 4.--Melamine: Percentage distribution of U.S. production and sales, by firms, 1976-78, January-November 1978, and January-November 1979

Firm	1976	1977	1978	January-November-- 1978	January-November-- 1979
	Production				
Allied	***	***	***	***	1/
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
	Sales quantity				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
	Sales value				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

1/ Allied discontinued production as of Jan. 1, 1979.

Source: Compiled from data received in response to questionnaires of the U.S. International Trade Commission.

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Melamine-formaldehyde resin use in paper treating and coating is expected to grow even less--2 percent a year--while the textile treating and coating market is considered to be stagnant from the standpoint of melamine consumption. 1/

* * * * * * *

[redacted]

Foreign Producers

There are 16 melamine producers outside the United States--7 in Western Europe, 3 in Eastern Europe and the U.S.S.R., 3 in Japan, and 1 each in Brazil, Taiwan, and the Republic of Korea. Western Europe, with an estimated aggregate production capacity of nearly 435 million pounds per year, represents about 50 percent of total world capacity, compared with the United States' 15 percent and Japan's 26 percent. Total Western European consumption of melamine in 1979 was estimated at 250 million pounds per year, with a projected annual growth rate of 3 percent through 1984. Hence, the Western European melamine industry suffered from overcapacity during 1976-79.

The sole melamine producer in Austria is the state-owned Chemie Linz A.G., with an estimated production capacity of * * * pounds per year. Chemie Linz A.G.'s production is based on urea, using its own technology. The sole melamine producer in Italy is Montedison S.p.A.; its estimated production capacity of * * * pounds per year * * *.

Montedison employs its own technology, based on urea feedstocks. Both Chemie Linz and Montedison have licensed their technologies to nonmarket economy producers.

Consideration of Injury or Likelihood Thereof

U.S. production, capacity, and capacity utilization

Total U.S. production of melamine declined from an estimated 135.9 million pounds in 1976 to 113.6 million pounds in 1978, or by 16 percent over the 3-year period (see table 3). During the 1976-78 period, Allied Chemical accounted for *** percent of total U.S. production. Allied's output declined by *** percent, from * * * pounds in 1976 to * * * pounds in 1977; and it dropped another *** percent in 1978, to * * * pounds. Allied discontinued production of melamine at the end of

[redacted]

1978. The chief reasons cited by company representatives for the shutdown included (1) aging plant and equipment requiring substantial capital investment for modernization and meeting Federal pollution requirements; and (2) inability to profitably produce ammonia (and urea) feedstocks with selling prices depressed by imported ammonia from the U.S.S.R. 1/ After Allied's shutdown, many of its customers turned to American Cyanamid and MCI, but many others began purchasing imported material. Thus, in 1979, total U.S. production dropped another *** percent from the 1978 level, to an estimated * * * pounds (annualized from 11 months' data), even though the combined production of American Cyanamid and MCI increased * * * percent that year. * * * .

Annual practical rated U.S. production capacity 2/ for 1976-78 declined from 159.5 million pounds in 1976 to 148.0 million pounds in 1978 (table 5). * * *

1/ In connection with the Commission's investigations on ammonia from the U.S.S.R., Allied advised that U.S. producers' prices for ammonia were competitive with the price of ammonia imported from the U.S.S.R.

2/ Practical rated capacity is defined as the normal sustained production that can be achieved on an annual basis, making allowances for anticipated maintenance and downtime, and is based on 24-hour-a-day, 7-day-a-week operation.

[redacted]

Table 5.--Melamine: U.S. production, producers' capacity, and capacity utilization, by firms, 1976-78, January-November 1978, and January-November 1979

Item and firm	1976	1977	1978	January-November--	
				1978	1979
Production:					
Allied--------1,000 pounds--	***	***	***	***	1/
American Cyanamid 1,000 pounds--	***	***	***	***	***
MCI------------------do---	***	***	***	***	***
Total---------------do----	135,933	122,948	113,633	103,238	***
Capacity: 2/					
Allied--------1,000 pounds--	***	***	***	***	1/
American Cyanamid 1,000 pounds--	***	***	***	***	***
MCI------------------do---	***	***	***	***	***
Total---------------do----	159,500	147,000	148,000	136,100	***
Capacity utilization:					
Allied------------percent--	***	***	***	***	1/
American Cyanamid percent--	***	***	***	***	***
MCI-----------------do----	***	***	***	***	***
Total--------------do----	85	84	77	76	***

1/ Allied discontinued production as of Jan. 1, 1979.

2/ Practical rated capacity, which is defined as the normal sustained production that can be achieved on an annual basis, making allowances for anticipated maintenance and downtime, and is based on 24-hour-a-day, 7-day-a-week operation.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

[redacted]

* * * .

As already mentioned, Allied shut down its plant at the end of 1978, so that U.S. practical rated capacity fell by *** percent to * * * pounds per year. Although the combined production of American Cyanamid and MCI increased from * * * pounds in 1978 to an estimated * * * pounds in 1979, or by *** percent, their combined capacity utilization remained about the same. 1/

It was argued in the hearing that the Allied South Point plant should not be considered part of domestic capacity in obtaining capacity utilization ratios. In view of the fact that Allied decommissioned the plant at the end of 1978, and Ashland's purchase of the plant in mid-1979 did not include the Allied technology for the production of melamine, it is correct to exclude the plant from 1979 capacity data. However, it should be noted that Ashland has considered possible alternative sources for urea and ammonia as feedstocks for the plant, stating that the South Point melamine facility could be recommissioned in a period of 2 to 6 months, if (1) market conditions warranted, (2) a licensing arrangement could be made, and (3) a feedstock supply could be obtained. Contrary to other evidence presented to the Commission, while the ammonia, urea, and formaldehyde sections of the South Point facility have been cannibalized and are being sold off as scrap, the melamine, * * *

1/ Representatives of U.S. importers argue that Allied should not be considered part of the industry in these investigations since its plant was closed for reasons other the imports under investigation. They argue that data relating to material injury to a firm whose stated injury was from sources other than imports under investigation should be excluded from the Commission's investigations. See prehearing brief on behalf of Chemie Linz, at page 17, and prehearing brief on behalf of Montedison, at page 15.

[redacted]

facilities at the site are intact and could become operational within a short period of time.

U.S. producer's open-market sales

Total U.S. producers' open-market sales (including export sales) fell 21 percent from 94.0 million pounds in 1976 to 74.5 million pounds in 1977; total sales value declined by 13 percent from $31.0 million in 1976 to $27.0 million in 1977. Sales then increased by 3 percent to 76.3 million pounds, valued at $27.6 million, in 1978. Total sales in 1979 fell by * * * from the 1978 level, but sales by MCI and American Cyanamid * * * rose * * * as both firms gained a substantial portion of Allied's former market. 1/

Individual company shares of the total U.S. open-market sales during the period did not closely parallel those for production because of American Cyanamid's captive consumption of the greater part of its own output. * * * .

During the 1976-78 period, MCI's share of domestic sales gradually rose from *** percent to *** percent, while American Cyanamid's declined from *** percent to *** percent. Through 1978, Allied increased its share of the total from *** percent to *** percent. Allied made some sales from inventory in 1979, accounting for about *** percent of total U.S. producers'

1/ * * * .

[redacted]

merchant sales in that year, but American Cyanamid's share of sales increased to about ***percent, while MCI's share jumped to about ***percent that year.

U.S. exports

Total U.S. exports of melamine amounted to * * * pounds in 1976 (table 6), or about ***percent of total U.S. production that year. Exports fell by ***percent to * * * pounds (about***percent of production) in 1977, but increased to * * * pounds (***percent of production) in 1978. In 1979, total U.S. exports were estimated to be * * * pounds (***percent of production), down ***percent from the 1978 level. * * * .

In relation to total sales of melamine, exports accounted for ***percent of American Cyanamid's sales in 1976, but * * * percent in 1978, and * * * percent in January-November 1979. Exports accounted for nearly * * * of MCI's total sales in 1976, but for * * * percent in 1977,*** percent in 1978, and*** percent in 1979. * * * .

U.S. imports

Total U.S. imports increased more than 10 times from 2.4 million pounds in 1976 to 26.9 million pounds in 1978, and then dropped to 18.5 million pounds in the January-November 1979 (tables 7 and 8). Japan accounted for 74.5 percent of the total quantity of imports in 1976, but

[redacted]

Table 6.--Melamine: U.S. exports, by firms, 1976-78, January-November 1978, and January-November 1979

Firm	1976	1977	1978	January-November-- 1978	January-November-- 1979
	Quantity (1,000 pounds)				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	***	***	***	***	***
	Value (1,000 dollars)				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	***	***	***	***	***

1/ Not available.
2/ * * * .

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 7.--Melamine: U.S. imports, by principal sources, 1976-78, January-November 1978, and January-November 1979

Source	1976	1977	1978	January-November-- 1978	January-November-- 1979
	Quantity (1,000 pounds)				
LTFV sources:					
Italy	0	263	6,005	5,568	1,509
Austria	579	2,240	2,987	2,749	2,039
Subtotal	579	2,503	8,992	8,317	3,548
Other:					
France	0	0	1,042	1,042	231
Japan	1,799	0	988	988	0
Netherlands	0	965	14,042	13,279	11,897
West Germany	35	2	584	507	2,092
All other	1	80	1,284	1,284	714
Subtotal	1,835	1,047	17,940	17,100	14,934
Total	2,414	3,550	26,932	25,417	18,482
	Value (1,000 dollars)				
LTFV sources:					
Italy	-	72	1,707	1,578	475
Austria	186	725	919	845	654
Subtotal	186	797	2,626	2,423	1,129
Other:					
France	-	-	301	301	83
Japan	482	-	324	324	-
Netherlands	-	297	4,406	4,139	4,557
West Germany	50	3	283	260	898
All other	1	26	390	391	266
Subtotal	533	326	5,704	5,415	5,804
Total	719	1,123	8,330	7,838	6,933
	Unit value (cents per pound)				
LTFV sources:					
Italy	-	27.4	28.4	28.3	31.5
Austria	32.1	32.4	30.8	30.7	32.1
Subtotal	32.1	31.8	29.2	29.1	31.8
Other:					
France	-	-	28.9	28.9	35.9
Japan	26.8	-	32.8	32.8	-
Netherlands	-	30.8	31.4	31.2	38.3
West Germany	142.9	150.0	48.5	51.3	42.9
All other	100.0	32.5	30.4	30.5	37.3
Subtotal	29.0	31.1	31.8	31.7	38.9
Total	29.8	31.6	30.9	30.8	37.5

Source: Compiled from official statistics of the U.S. Department of Commerce.

[redacted]

Table 8.--Melamine: Percentage distribution of U.S. imports, by principal sources, 1976-78, January-November 1978, and January-November 1979

(In percent)

Source	1976	1977	1978	January-November-- 1978	January-November-- 1979
			Quantity		
LTFV sources:					
Italy	-	7.4	22.3	21.9	8.2
Austria	24.0	63.1	11.1	10.8	11.0
Subtotal	24.0	70.5	33.4	32.7	19.2
Other:					
France	-	-	3.9	4.1	1.2
Japan	74.5	-	3.7	3.9	-
Netherlands	-	27.2	52.1	52.2	64.4
West Germany	1.5	.1	2.2	2.0	11.3
All other	1/	2.2	4.7	5.1	3.9
Subtotal	76.0	29.5	66.6	67.3	80.8
Total	100.0	100.0	100.0	100.0	100.0
			Value		
LTFV sources:					
Italy	-	6.4	20.5	20.1	6.9
Austria	25.9	64.6	11.0	10.8	9.4
Subtotal	25.9	71.0	31.5	30.9	16.3
Other:					
France	-	-	3.6	3.8	1.2
Japan	67.0	-	3.9	4.1	-
Netherlands	-	26.4	52.9	52.8	65.7
West Germany	7.0	0.3	3.4	3.3	13.0
All other	0.1	2.3	4.7	5.0	3.8
Subtotal	74.1	29.0	68.5	69.1	83.7
Total	100.0	100.0	100.0	100.0	100.0

1/ Less than 0.5 percent.

Source: Compiled from official statistics of the U.S. Department of Commerce.

[redacted]

in December of that year the Commission determined that a domestic industry was being injured and was likely to be injured by less-than-fair-value imports of melamine from Japan 1/ and, in 1977, imports from Japan stopped altogether. In 1978, imports from Japan resumed again, but amounted to only 4 percent of the U.S. total.

By 1978, imports from the Netherlands accounted for 52 percent of the total quantity of U.S. imports, up from zero in 1976, imports from Italy accounted for 22 percent of the total, up from zero in 1976, and imports from Austria accounted for 11 percent of the total, down substantially from their share of the total in 1976, but five times higher than 1976 in actual volume. Altogether, imports from countries found to be selling at LTFV accounted for 33.4 percent of the total quantity of imports in 1978 and 19.2 percent of the quantity of imports in January-November 1979. Table 9 presents melamine import data for the LTFV countries, as reported by the U.S. Department of Commerce and by U.S. importers in response to Commission questionnaires. Though the differences are significant, the trends are basically parallel.

Table 10 shows sales of imported melamine as reported by U.S. importers in response to Commission questionnaires. * * * .

1/ *Melamine in Crystal Form From Japan: Determination of Injury and Likelihood Thereof in Investigation No. AA1921-162 . . .*, USITC Publication 796, December 1976.

Table 9.--Melamine: U.S. imports from Austria and Italy, as reported by the U.S. Department of Commerce and by U.S. importers in response to Commission questionnaires, 1976-78, January-November 1978, and January-November 1979

Item and source	1976	1977	1978	January-November--	
				1978	1979
	Quantity (1,000 pounds)				
Commerce data:					
Austria	579	2,240	2,987	2,749	2,039
Italy	0	263	6,005	5,568	1,509
Total	579	2,503	8,992	8,317	3,548
Questionnaire data:					
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Total	***	***	***	***	***
	Value (1,000 dollars) 1/				
Commerce data:					
Austria	186	725	919	845	654
Italy	-	72	1,707	1,578	475
Total	186	797	2,626	2,423	1,129
Questionnaire data:					
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Total	***	***	***	***	***
	Unit value (cents per pound)				
Commerce data:					
Austria	32.1	32.4	30.8	30.7	32.1
Italy	-	27.4	28.4	28.3	31.5
Total	32.1	31.8	29.2	29.1	31.8
Questionnaire data:					
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Total	***	***	***	***	***

1/ Values reported in questionnaires are consistently higher than in Commerce data, because the former include c.i.f. charges and U.S. tariff, while the latter do not.

[redacted]

Table 10.--Sales of melamine imported from Austria and Italy, 1976-78, January-November 1978, and January-November 1979

Source	1976	1977	1978	January-November-- 1978	January-November-- 1979
	Quantity (1,000 pounds)				
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Total	***	***	***	***	***
	Value (1,000 dollars)				
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Total	***	***	***	***	***
	Unit value (cents per pound)				
Austria	***	***	***	***	***
Italy	***	***	***	***	***
Total	***	***	***	***	***

1/ Actual return on sales, net of discounts, allowances, and inland freight charges from warehouse.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

[redacted]

U.S. producers' inventories

Total domestic end-of-period inventories reported by Allied, American Cyanamid, and MCI increased from 4.1 million pounds in 1976 to * * * pounds in 1978, and declined to * * * pounds in 1979 (table 11). The ratio of inventories to sales was *** percent, *** percent, and *** percent for Allied, American Cyanamid, and MCI, respectively, in 1976. * * * .

U.S. employment

Data on U.S. employment in establishments producing melamine are presented in table 12. According to responses received from U.S. producers, there were 207 production and related workers directly involved in manufacturing melamine in 1976. This amounts to about one-fourth of total employment in the establishments producing melamine. The melamine production process is continuous, requiring a relatively constant number of production and related workers for a wide range of production levels. Thus, in 1977, the number of production and related workers increased to 217, and in 1978,

[redacted]

Table 11.--Melamine: U.S. production, sales, and end-of-period inventories, by firms, 1976-78, January-November 1978, and January-November 1979

Firm	1976	1977	1978	January-November--	
				1978	1979
	Production (1,000 pounds)				
Allied	***	***	***	***	1/
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	135,933	122,948	113,633	103,238	***
	Sales (1,000 pounds)				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	93,997	74,452	76,349	71,521	***
	End-of-period inventories (1,000 pounds)				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	4,127	***	***	***	***
	Ratio of inventories to production (percent)				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	3.0	***	***	***	***
	Ratio of inventories to sales (percent)				
Allied	***	***	***	***	***
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	4.4	***	***	***	***

1/ Allied discontinued production as of Jan. 1, 1979.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

[redacted]

Table 12.—Average number of employees in U.S. establishments producing melamine, total, all production and related workers, and all production and related workers engaged in the manufacture of melamine, and person-hours worked by production and related workers engaged in the manufacture of melamine, 1976-78, January-November 1978, and January-November 1979

Item and firm	1976	1977	1978	January-November--	
				1978	1979
All employees:					
Allied	***	***	***	***	1/
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	817	966	1,035	1,035	***
All production and related workers:					
Allied	***	***	***	***	1/
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	536	667	706	706	***
Production and related workers producing melamine:					
Allied	***	***	***	***	1/
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	207	217	223	223	***
Person-hours worked by production and related workers producing melamine:					
Allied	***	***	***	***	1/
American Cyanamid	***	***	***	***	***
MCI	***	***	***	***	***
Total	429,524	435,495	444,777	405,202	***

1/ Allied discontinued production as of Jan. 1, 1979.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

[redacted]

to 223, an overall increase of 8 percent for the 1976-78 period. Because Allied closed its plant late in December 1978, the number of production and related workers dropped to *** workers in January-November 1979.

The total number of person-hours worked by production and related workers followed a similar trend. The number of person-hours increased by 4 percent during the 1976-78 period, from 430,000 hours (36,000 hours per month) to 445,000 hours (37,000 hours per month). After Allied's shutdown, the total dropped to * * * hours (* * * hours per month) during January-November 1979.

Comparisons of productivity by companies would be meaningless because of a wide discrepancy in the way employment data were reported by the firms. * * * .

Nevertheless, it can be generalized that as the production level increases, so does productivity, since the number of production and related workers remains fairly constant. For the same reason, productivity declines as production falls.

Financial experience of U.S. producers

All three domestic producers of melamine operating during 1976-79 supplied financial data to the Commission in connection with these investigations (table 13). The aggregate net operating profit of the industry

Table 13.--Melamine: Summary statement of operating income of U.S. producers, on melamine operations only, by firms, 1976-78, and January- November 1979

Item and firm	1976	1977	1978	January-November 1979
Net sales:				
Allied 1/----1,000 dollars--:	***	***	***	2/
American Cyanamid 3/--do----:	***	***	***	***
MCI 4/----------------do----:	***	***	***	***
Total---------------do----:	25,471	27,087	28,488	***
Intracompany and intercompany transfers:				
Allied-------1 000 dollars--:				
American Cyanamid-----do----:				
MCI-------------------do----:				
Total---------------do----:				
Cost of goods sold:				
Raw materials:				
Allied-----1,000 dollars--:				
American Cyanamid---do----:				
MCI-----------------do----:				
Total-------------do----:				
Direct labor:				
Allied-----1,000 dollars--:				
American Cyanamid---do----:				
MCI-----------------do----:				
Total-------------do----:	* *	*	*	* * *
Other factory costs:				
Allied-----1,000 dollars--:				
American Cyanamid---do----:				
MCI-----------------do----:				
Total-------------do----:				
Opening inventory (finished goods):				
Allied-----1,000 dollars--:				
American Cyanamid---do----:				
MCI-----------------do----:				
Total-------------do----:				
Closing inventory (finished goods):				
Allied-----1,000 dollars--:				
American Cyanamid---do----:				
MCI-----------------do----:				
Total-------------do----:				
Total cost of goods sold:				
Allied-----1,000 dollars--:				
American Cyanamid---do----:				
MCI-----------------do----:				
Total-------------do----:				

See footnotes at end of table.

[redacted]

Table 13.--Melamine: Summary statement of operating income of U.S. producers, on melamine operations only, by firms, 1976-78, and January-November 1979--Continued

Item and firm	1976	1977	1978	January-November 1979
Gross profit (loss):				
Allied---------1,000 dollars--				
American Cyanamid-----do----				
MCI------------------do----				
Total---------------do----				
Administrative and selling expenses:				
Allied-------1,000 dollars--				
American Cyanamid-----do----	*	*	*	* * * *
MCI------------------do----				
Total---------------do----				
Net operating profit (loss):				
Allied-------1,000 dollars--				
American Cyanamid-----do----				
MCI------------------do----				
Total---------------do----				
Ratio of net operating profit (loss) to net sales:				
Allied-------1,000 dollars--				
American Cyanamid-----do----				
MCI------------------do----				
Total---------------do----				

1/ * * * .
2/ * * * .
3/ * * * .
4/ * * * .
5/ Not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

[redacted]

declined *** percent from * * * (*** percent of net sales) in 1976 to * * * (*** percent of net sales) in 1977. Operating profit dropped *** percent in 1978 to * * * (*** percent of sales), but increased slightly to * * * (***percent of sales) in January-November 1979.

* * * * * * *

[redacted]

Table 14 shows the valuation of net fixed assets and the ratios of net profits to net fixed assets used in the production of melamine, as reported by American Cyanamid and MCI. Allied was unable to provide such data.

Profit measured as a percentage of either net sales or net fixed assets can be misleading as an indicator of a firm's real profitability, especially in a highly capital intensive industry like the melamine industry. In recent years, the Du Pont method of determining profitability using return on investment (ROI) has become a more accepted measure of profitability, because it eliminates potential errors inherent in other measures of profitability. Briefly, the Du Pont formula can be expressed as follows:

$$\text{ROI} = \frac{\text{sales}}{\text{total assets (original cost)}} \times \frac{\text{net operating profit}}{\text{sales}}$$

Isolating MCI for illustration, the ROI would show that MCI's profitability after taxes * * * . * * *

[redacted]

Table 14.--U.S. producers' valuation of net fixed assets used in the production of melamine and ratios of net operating profit to net fixed assets, by firms, 1976-78, and January-November 1979

Item and firm	1976	1977	1978	January-November 1979
	Valuation of assets (1,000 dollars)			
Original cost:				
Allied				
American Cyanamid				
MCI				
Total	* * * * * * *			
Book value:				
Allied				
American Cyanamid				
MCI				
Total				
Replacement cost:				
Allied				
American Cyanamid				
MCI				
Total				
	Ratio of net operating profit (loss) to net fixed assets (percent)			
Original cost:				
Allied				
American Cyanamid				
MCI				
Total				
Book value:	* * * * * * *			
Allied				
American Cyanamid				
MCI				
Total				
Replacement cost:				
Allied				
American Cyanamid				
MCI				
Total				

1/ Not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

[redacted]

The Question of the Causal Relationship Between LTFV Imports and the Alleged Injury

U.S. consumption and market penetration of imports

Apparent consumption of melamine in the United States amounted to * * * pounds in 1976 (table 15). After declining to * * * pounds in 1977, consumption increased to * * * in 1978, then dropped to an estimated * * * pounds in 1979. Apparent merchant-market consumption followed the same pattern, falling from * * * pounds in 1976 to * * * pounds in 1977, increasing to * * * pounds in 1978, and falling to an estimated * * * pounds in 1979 (table 16).

Austria accounted for *** imports from the LTFV countries under investigation in 1976, 1/ and for ***percent of total U.S. imports that year. The ratio of imports from Austria to total U.S. consumption in 1976 was * * * percent. In 1977 Austria's share of imports from LTFV countries increased to*** percent. The ratio of imports from LTFV sources to apparent consumption in 1977 increased to *** percent. Italy accounted for * * * percent of LTFV imports in 1978, and Austria accounted for the remainder. The ratio of imports to consumption for imports from the two LTFV countries reached *** percent in 1978, with such imports accounting for ***percent of total U.S. imports that year. Total imports in 1979 dropped 25 percent; imports from the LTFV countries dropped 64 percent, and the ratio of imports from Austria and Italy to consumption slipped to *** percent. The ratios of such imports to apparent merchant market consumption were somewhat greater than for total apparent consumption, but the trends were similar. The individual ratios of imports to total U.S. consumption and merchant market consumption, by LTFV country, are given in tables 17 and 18.

1/ * * * .

Table 15.--Melamine: U.S. production, exports, imports, and apparent consumption, 1976-78, January-November 1978, and January-November 1979

Period	Production	Exports	Imports			Apparent consumption 3/	Ratio of imports to consumption		
			From LTFV sources 1/	From all other sources	Total 2/		From LTFV sources	From all other sources	Total
	1,000 pounds						Percent		
1976	135,933	***	***	1,835	2,414	***	***	***	***
1977	122,948	***	***	1,047	3,550	***	***	***	***
1978	113,635	***	***	17,940	26,932	***	***	***	***
January-November--									
1978	103,238	***	***	17,100	25,417	***	***	***	***
1979	***	***	***	14,934	18,482	***	***	***	***

1/ The Treasury/Commerce investigations found 100 percent of the imports from Austria and Italy to be at LTFV. Data shown are for total imports reported from the 2 countries.

2/ Total imports do not equal the sum of LTFV and "all other" imports because of discrepancies betwen Commerce statistics and data reported by U.S. importers in response to Commission questionnaires.

3/ Apparent consumption equals production minus exports plus imports.

Source: Production, exports, and LTFV imports, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; all other imports and total imports, compiled from official statistics of the U.S. Department of Commerce.

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Table 16.--Melamine: U.S. producers' open-market sales, exports, imports, and apparent merchant-market consumption, 1976-78, January-November 1978, and January-November 1979

Period	U.S. producers' open-market sales	Exports	Imports: From LTFV sources 1/	Imports: From all other sources	Imports: Total 2/	Apparent merchant-market consumption 3/	Ratio of imports to merchant-market consumption: From LTFV sources	Ratio of imports to merchant-market consumption: From all other sources	Ratio of imports to merchant-market consumption: Total
	1,000 pounds						Percent		
1976	93,997	***	***	1,835	2,414	***	***	***	***
1977	74,452	***	***	1,047	3,550	***	***	***	***
1978	76,349	***	***	17,940	26,932	***	***	***	***
January-November--									
1978	71,521	***	***	17,100	25,417	***	***	***	***
1979	***	***	***	14,934	18,482	***	***	***	***

1/ The Treasury/Commerce investigations found 100 percent of the imports from Austria and Italy to be at LTFV. Data shown are for total imports reported from the 2 countries.

2/ Total imports do not equal the sum of LTFV and "all other" imports because of discrepancies between Commerce Statistics and reported by U.S. importers in response to Commission questionnaires.

3/ Apparent merchant-market consumption equals open-market sales minus exports plus imports.

4/ Estimated.

Source: Production, exports, and LTFV imports, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; all other imports and total imports, compiled from official statistics of the U.S. Department of Commerce.

Table 17.--Melamine: Apparent U.S. consumption and U.S. imports, 1976-78, January-November 1978, and January-November 1979

Period	Apparent consumption	Imports				Ratio of imports to consumption			
		From LTFV sources 1/		From all other sources	Total 2/	From LTFV sources 1/		From all other sources	Total 3/
		Austria	Italy			Austria	Italy		
	1,000 pounds					Percent			
1976	***	***	***	1,835	2,414	***	***	***	***
1977	***	***	***	1,047	3,550	***	***	***	***
1978	***	***	***	17,940	26,932	***	***	***	***
Jan.-Nov.--									
1978	***	***	***	17,100	25,417	***	***	***	***
1979	***	***	***	14,934	18,482	***	***	***	***

1/ The Treasury/Commerce investigations found 100 percent of the imports from Austria and Italy to be at LTFV. Data shown are total imports reported for the 2 countries.

2/ Total imports do not equal the sum of LTFV and all other imports because of discrepancies between Commerce statistics and data reported by U.S. importers in response to Commission questionnaires.

3/ Ratios of total U.S. imports to consumption do not equal the sum of ratios for LTFV and all other imports because of discrepancies between Commerce statistics and data reported by U.S. importers in response to Commission questionnaires.

Source: LTFV imports, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; all other and total imports, compiled from official statistics of the U.S. Department of Commerce; consumption, compiled from both questionnaire data and Commerce statistics.

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Table 18.--Melamine: Apparent U.S. merchant market consumption and U.S. imports, 1976-78, January-November 1978, and January-November 1979

Period	Apparent merchant market consumption	Imports				Ratio of imports to merchant market consumption			
		From LTFV sources 1/		From all other sources	Toal 2/	From LTFV sources 1/		From all other sources	Total 3/
		Austria	Italy			Austria	Italy		
	1,000 pounds					Percent			
1976---------	***	***	***	1,835	2,414	***	***	***	***
1977---------	***	***	***	1,047	3,550	***	***	***	***
1978---------	***	***	***	17,940	26,932	***	***	***	***
Jan.-Nov.--									
1978-------	***	***	***	17,100	25,417	***	***	***	***
1979-------	***	***	***	14,934	18,482	***	***	***	***

[1] The Treasury/Commerce investigations found 100 percent of the imports from Austria and Italy to be at LTFV. Data shown are total imports reported for the 2 countries.

[2] Total imports do no equal the sum of LTFV and all other imports because of discrepancies between Commerce statistics and data reported by U.S. importers in response to Commission questionnaires.

[3] Ratios of total U.S. imports to merchant market consumption do not equal the sum of ratios for LTFV and all other imports because of discrepancies between Commerce statistics and data submitted in response to Commission questionnaires.

Source: LTFV imports, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; all other and total imports, compiled from official statistics of the U.S. Department of Commerce; consumption, compiled from both questionnaire data and Commerce statistics.

[redacted]

Pricing policies

Domestic melamine prices generally are quoted on an f.o.b., plant of manufacture basis. Published price lists usually apply to the standard order of 40,000 pounds of crystals in 50-pound bags. The bulk hopper carload price, which applies to orders of 150,000 to 180,000 pounds, is 1.5 cents per pound less than that for truckloads of 40,000 pounds. [1] Terms of payment are net 30 days.

Information that was obtained on the pricing policies of foreign melamine producers is summarized briefly below.

Montedison S.p.A (Italy).--

* * * * * * *

Chemie Linz (Austria).--

* * * * * * *

Prices

Comparison of domestic and import prices.--Price data presented in

---

[1] Prior to 1978, the bulk/bag difference had been 1 cent per pound.

[redacted]

tables 19 and 20 were supplied to the Commission by two importers-- * * * --and two domestic manufacturers--American Cyanamid and MCI. 1/ The prices reported by importers are f.o.b., port-of-entry; those reported by U.S. producers are f.o.b., plant of manufacture. Prices reported are based on shipments to each company's three largest customers in the United States. Data in figures 1, 2, and 3 show that melamine sold by importers during the period under consideration was, in most instances, priced below the weighted average price of domestic melamine. The margin of underselling ranged from a high of *** cents per pound in July 1978 to a low of *** cent per pound in May 1979. Table 21 shows the weighted average price received for the foreign product, the weighted average price received for the domestic product, and the amount of under- or overselling, for the periods indicated. Austrian melamine was priced competitively with the domestic product, except in 1977, when margins of underselling averaged *** cents per pound. Margins of underselling for Italian melamine averaged *** cents per pound for the period November 1977-March 1979, and was priced competitively with the domestic product for the rest of 1979. The margins of underselling for Austrian and Italian melamine were more than accounted for by the LTFV margins found by Treasury.

MCI opined in the hearing that a better price comparison would include inland freight charges. MCI claimed that the shipping charge from its plant in Louisiana to large customers in the Northeast could be as high as 3.5 cents per pound. Importers, it was argued, need only cover inland freight to the Northeast from customs ports located close to that market.

1/ Allied, which ceased production at the end of 1978, did not supply price data. Allied accounted for *** percent of U.S. producers' open-market sales during 1976-78 and *** percent of such sales during January-November 1979.

[redacted]

Table 19.--Melamine: U.S. importers' net selling prices and weighted average selling prices, by foreign producers, and by specified periods, January 1976-November 1979

(In cents per pound)

Period	Chemie Linz A.G. (Austria)	Montedison S.p.A. (Italy)	Importers' weighted average selling price
1976:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Dec.			
1977:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Dec.			
1978:			
January	* *	* * *	* *
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
1979:			
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			

Source: Compiled from data submitted in response to questionnaire of the U.S. International Trade Commission.

Note.--Prices are for melamine shipped in bag form, on an f.o.b., port-of-entry, duty-paid basis.

[redacted]

Table 20.--Melamine: U.S. producers' selling prices to customers in the United States, by producers, and weighted average selling prices by specified periods, January 1976-November 1979

(In cents per pound)

Period	MCI	American Cyanamid	Producers weighted average selling price
1976:			
January-March			
April-June			
July-September			
October-December			
1977:			
January-March			
April-June			
July-September			
October-December			
1978:			
January	*	* * *	* * *
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
1979:			
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--U.S. producers' prices are for melamine shipped in bag form, on an f.o.b., plant of manufacture, basis.

[redacted]

Figure 1.--Melamine: Weighted average prices received by U.S. producers and importers, by quarters 1976-77, and by months, January 1978-November 1979

* * * * * * *

[redacted]

Figure 2.--Melamine: Weighted average prices received by U.S. producers and by importers of Austrian melamine, by quarters, 1976-77, and by months, January 1978-November 1979

* * * * * * *

[redacted]

Figure 3.--Melamine: Weighted average prices received by U.S. producers and by importers of Italian melamine, by quarters, 1976-77, and by months, January 1978-November 1979

* * * * * * *

[redacted]

Table 21.--Melamine: Net selling prices to U.S. purchasers of imported and domestic melamine, for specified periods, January 1976-November 1979

(In cents per pound)

Period	Imported melamine 1/	U.S.-produced melamine 2/	Average margin of underselling (-) or overselling 3/
1976:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Nov.			
1977:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Dec.			
1978:			
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
1979:			
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			

1/ Weighted average prices for 2 importers.
2/ Weighted average prices for 2 domestic producers.
3/ Based on weighted averages.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--U.S. producers' prices are on an f.o.b., plant of manufacture, basis; importers' prices are on an f.o.b., port-of-entry, duty-paid, basis; all prices are for melamine shipped in bag form only.

[redacted]

* * *

Thus for 1976-78, the difference in inland shipping costs was smaller than alleged. Counsel for Chemie Linz commented on this fact in its posthearing brief, stating, "The fact that a domestic producer is geographically inconveniently located to most customers in the U.S. may represent a competitive difficulty for MCI but such difficulty is wholly the result of business decisions made by such domestic producer and is totally unrelated to LTFV imports or alleged price undercutting." 1/ For far western customers, neither importers nor U.S. producers held a shipping cost advantage. Tables 22 and 23 and figures 4 and 5 present a comparison of domestic and import prices which include estimated inland freight charges.

The melamine which is the subject of this investigation is sold in two markets--the merchant market and the captive market. The merchant market is the portion of the U.S. market which is available to all purchasers, both foreign and domestic, on a competitive basis. The captive market applies to one U.S. manufacturer, American Cyanamid, which manufactures more advanced products from its melamine output.

American Cyanamid purchased melamine from other U.S. producers (i.e., Allied and MCI) during 1976-79, as well as from * * *

1/ See posthearing brief for Chemie Linz, p. 4.

[redacted]

Table 22.--Melamine: Net delivered prices to purchasers of Austrian melamine and domestic melamine, for specified periods, January 1976-November 1979

(In cents per pound)

Period	Austrian melamine 1/	U.S.-produced melamine 2/	Average margin of underselling (-) or overselling 3/
1976:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Dec.			
1977:			
Jan.-Mar.	* *	* * *	* *
Apr.-June			
July-Sept.			
Oct.-Dec.			
1978:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Nov.			
1979:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Nov.			

1/ * * *.

2/ Weighted average prices for 2 domestic producers.

3/ Based on weighted averages.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--Prices shown are for melamine shipped in bag form only, and include estimated inland freight charges.

[redacted]

Table 23.--Melamine: Net delivered prices to purchasers of Italian melamine and domestic melamine, for specified periods, January 1976-November 1979

(In cents per pound)

Period	Italian melamine 1/	U.S.-produced melamine 2/	Average margin of under-selling (-) or overselling 3/
1976:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Dec.			
1977:			
Jan.-Mar.	* *	* *	* * *
Apr.-June			
July-Sept.			
Oct.-Dec.			
1978:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Nov.			
1979:			
Jan.-Mar.			
Apr.-June			
July-Sept.			
Oct.-Nov.			

1/ * * *.
2/ Weighted average prices for 2 domestic producers.
3/ Based on weighted averages.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--Prices shown are for melamine shipped in bag form only, and include estimated inland freight charges.

[redacted]

Figure 4.--Melamine: Net delivered prices to purchasers, of Austrian melamine and domestic melamine, by quarters, January 1976-September 1979 and October-November 1979

* * * * * * *

[redacted]

Figure 5.-- Melamine: Net delivered prices to purchasers, of Italian melamine and domestic melamine, by quarters, January 1976-September 1979 and October-November 1979

* * * * * * *

[redacted]

* * * (table 24). The weighted average unit value of American Cyanamid's purchases in 1978 from * * * . * * *

Under terms of a 1964 antitrust consent decree designed to ensure the viability of the domestic melamine industry, American Cyanamid was required to purchase the melamine necessary for its production of its Formica brand products (rather than consume its own output for such purpose), with preference to be given to domestic producers. 1/ In effect, since Allied shut down as of January 1, 1979, the petitioner (MCI) appears to have a portion of its domestic market insulated from all sources or foreign competition as a result of this directive.

Historical behavior of melamine prices.--Figure 6 shows the historical price behavior of melamine compared with that of total industrial chemicals and plastics resins and materials. The graph shows that, since 1967, the price for melamine increased less rapidly than the prices for all industrial chemicals and plastics resins. Between 1970 and 1974, melamine prices remained relatively static, largely because of slow demand growth. 2/ Melamine prices increased during 1974, but between 1975 and 1976 (the LTFV period for imports from Japan) prices were static. Prices rose in 1976 as the recovery from the 1974-75 recession gained momentum, and the demand for melamine increased. 3/ Since 1976, melamine prices have increased at an average annual rate of 4 percent, roughly paralleling trends of industrial chemicals and plastics resins.

1/ In its petition to the Treasury Department, MCI indicated that it believes that purchases by American Cyanamid of MCI's melamine are made pursuant to the abovementioned decree, and should be regarded as part of the captive market.

2/ Demand for melamine resins is dependent on consumer activity in the construction, automotive, and textile industries. During this period, strong demand for laminates because of a high level of housing starts was offset by no growth in demand for molding compounds and a decline in demand for textile treating resins.

3/ During 1978, melamine was in tight supply because of operating difficulties at several U.S. plants; this resulted in depressed production that year.

Table 24.--Melamine: Weighted average unit values of purchases by American Cyanamid from other U.S. producers, from a U.S. importer, and from a foreign producer, by firms, 1976-78, January-November 1978, and January-November 1979

(In cents per pound)

Period	Other U.S. producers: MCI and Allied	U.S. importer: * * *	Foreign producer: * * *
1976	* *	* *	* * *
1977			
1978			
Jan.-Nov.--			
1978			
1979			

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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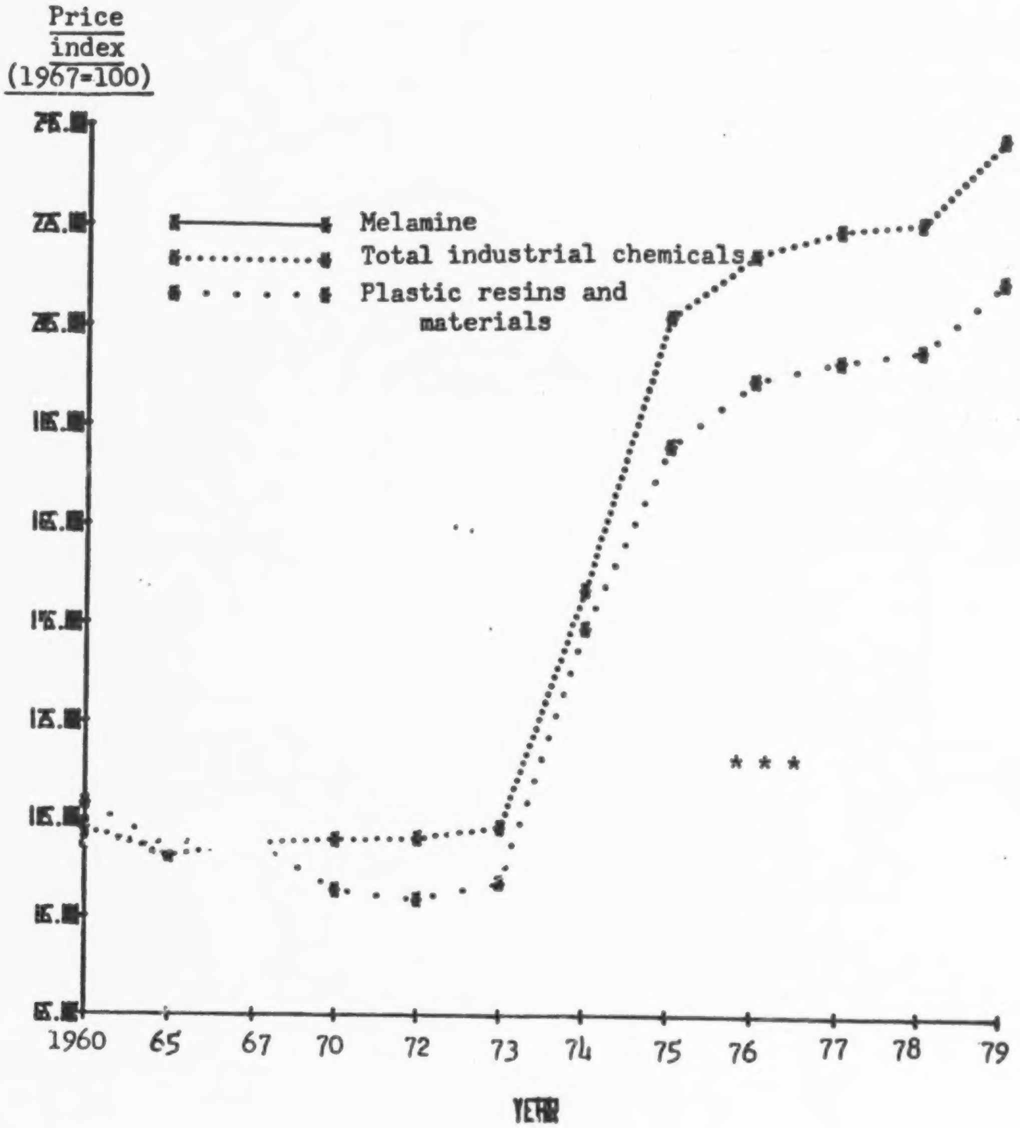
Figure 6.--Price indexes for melamine, total industrial chemicals, and plastics resins and materials, 1960-79



Sources: Data on melamine compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; other data compiled from official statistics of the U.S. Department of Commerce, and from Stanford Research Institute, Chemical Economics Handbook.

[redacted]

Lost sales

Allied reported an unknown amount of lost sales of melamine as the result of import competition from Austria and Italy during 1976-78. The customers cited include * * *

, all of which imported some quantities of melamine from LTFV sources during the period.

MCI claimed lost sales during 1976-79 amounting to a total of * * * pounds, valued at * * * . 1/ Specific lost sales cited by MCI involved *** customers, *** of which were identified by the U.S. Customs Service as importers of melamine from Austria and Italy during the period. In addition, MCI claimed that any imported melamine detracts from its sales, since it has no internal use. Along this line, MCI listed * * * other potential customers who were believed to have imported unknown quantities of melamine from LTFV sources during 1976-79.

Firms alleged to represent lost sales to Allied and MCI were contacted regarding lost sales allegations. * * *

Purchasers' comments on this and other factors follow.

* * * * * * *

1/ A substantial portion of this amount is attributable to Netherlands melamine, but on April 25, 1980, Commerce amended its final affirmative LTFV determination regarding Netherlands melamine to a finding of sales at not less than fair value.

APPENDIX A

COMMERCE'S TRANSMITTAL LETTER TO THE U.S. INTERNATIONAL TRADE COMMISSION WITH RESPECT TO MELAMINE FROM AUSTRIA AND ITALY

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RECEIVED
JAN 7 1980
OFFICE OF THE SECRETARY
U.S. INTL. TRADE COMMISSION

04 JAN 1980

DOCKET NUMBER
#620
Office of the Secretary
Int'l. Trade Commission

Dear Mr. Mason:

In accordance with the requirements of the Trade Agreements Act of 1979, the following countervail and antidumping cases are being referred to the Commission for a determination of injury or reasonable indication thereof. With regard to countervail investigations, only those cases involving products from countries which signed the Code at Geneva are being referred.

I. Countervailing Duty Cases in which the collection of duties was waived pursuant to the Trade Act of 1974 (5 cases):

Product	Country
Dairy Products (other than quota cheeses)	Member states of the European Communities
Canned Hams	Member states of the European Communities
Butter Cookies	Denmark
Fish	Canada
Leather Handbags	Brazil

II. Countervailing Duty Cases in which final affirmative determinations were issued between July 26 and December 31, 1979 (2 cases):

Product	Country
Tomato Products	Member states of the European Communities
Potato Starch	Member states of the European Communities

III. Countervailing Duty final affirmative determination with regard to frozen beef from member states of the European Communities (1 case).

IV. Countervailing Duty investigations in which a preliminary affirmative determination (but no final determination) has been issued (8 cases):

Product	Country
Corn Starch	Member states of the European Communities

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Valves	Italy
Rayon Staple Fiber	Austria
Valves	Japan
Scales	Japan
Malleable Pipe Fittings	Japan
Firearms	Brazil
Ferroalloys	Brazil

V. Countervailing Duty Cases which have been initiated, but for which no preliminary or final determination has been issued (4 cases):

Product	Country
Frozen Potato Products	Canada
Roses	Netherlands
Glass Lined Steel Reactor Pressure Vessels	France
Chains and Parts	Japan

VI. Antidumping Cases for which there have been preliminary affirmative determinations, but no final determinations (3 cases):

Product	Country
Portable Typewriters	Japan
Melamine	Austria
Melamine	Italy

VII. Antidumping Cases which have been initiated, but for which no preliminary or final determinations have been issued (9 cases):

Product	Country
Sodium Hydroxide	United Kingdom
Sodium Hydroxide	West Germany
Sodium Hydroxide	Italy
Sodium Hydroxide	France
Rail Passenger Cars	Italy

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[redacted]

Rail Passenger Cars	Japan
Electric Motors	Japan
Microwave Ovens	Japan
Canned Clams	Canada

If you have any questions regarding any of these cases, please feel free to contact me or members of my staff at 566-2323.

Regards,

Richard B. Self

Richard B. Self
Director, Office of Policy
Office of the Assistant Secretary
for Trade Administration

cc: Dave Binder

Mr. Kenneth R. Mason
Secretary to the Commission
U.S. International Trade Commission
Washington, D.C. 20436

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300
15

[redacted]

APPENDIX B

COMMERCE'S NOTICES OF ITS FINAL DETERMINATIONS WITH RESPECT TO MELAMINE FROM AUSTRIA, ITALY, AND THE NETHERLANDS

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UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

21 MAR 1980

The Honorable
Catherine Bedell
Chairman, International
 Trade Commission
Washington, D.C. 20436

Dear Madam Chairman:

In accordance with section 735(a) of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d(a)(the Act), the Department of Commerce has determined that melamine from Austria is being sold at less than fair value within the meaning of section 731 of the Act (93 Stat. 162, 19 U.S.C. 1673). Pursuant to section 735(d) of the Act, (93 Stat. 172, 19 U.S.C. 1673d(d)), you are hereby formally advised of this determination and the bases for the determination which are specified in the attached copy of the Federal Register notice.

Pursuant to section 735(c)(1)(A) of the Act (93 Stat. 171, 19 U.S.C. 1673d(c)(1)(A)), you will be accorded full access to all nonprivileged and non-confidential information in our files. All privileged and confidential information in the files will be made available upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under administrative protective order, without the express written consent of the Assistant Secretary for Trade Administration.

Sincerely,

Stanley J. Marcuss
Acting Assistant Secretary for
 Trade Administration

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3510-22

DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION

MELAMINE IN CRYSTAL FORM FROM AUSTRIA

ANTIDUMPING: DETERMINATION OF SALES AT LESS THAN FAIR VALUE

AGENCY: U.S. Department of Commerce

ACTION: Final Determination of Sales at Less Than Fair Value

SUMMARY:

This notice is to advise the public that it has been determined that melamine in crystal form from Austria has been sold to the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended. Sales at less than fair value generally occur when merchandise exported to the United States is sold in the United States at a price which is less than (a) the price of such or similar merchandise sold in the home market, (b) in the absence of a viable home market, the price at which it is sold in a third country, or (c) a constructed value.

EFFECTIVE DATE:

(Date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT:

Stuart Keitz, Office of Investigations, International Trade Administration, U.S. Department of Commerce, N.W., Washington, D.C. 20230 (202-566-5492).

SUPPLEMENTARY INFORMATION:

On March 23, 1979, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Melamine Chemicals, Inc. (MCI), Donaldsonville, Louisiana,

[redacted]

alleging that imports of melamine in crystal form from Austria are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). An "Antidumping Proceeding Notice" indicating that there was evidence on record concerning injury to, or likelihood of injury to, an industry in the United States was published in the Federal Register of May 1, 1979 (44 Fed. Reg. 25555). A "Withholding of Appraisement Notice" was published in the Federal Register on November 13, 1979 (44 Fed. Reg. 65516-65517).

The merchandise under consideration is described as "melamine in crystal form" provided for in item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

In accordance with section 102(b)(2) of the Trade Agreements Act of 1979 (19 USC 1671 note), this matter is being treated as if a preliminary determination under section 733 of the Tariff Act of 1930, as amended (93 Stat. 163, 19 USC 1673b), had been made on January 1, 1980. Accordingly, liquidation has been suspended on all entries, or withdrawals from warehouse, for consumption of the subject merchandise from Austria, on or after the date of publication of the "Withholding of Appraisement Notice" in the Federal Register.

Final Determination of Sales at Less Than Fair Value

On the basis of the information developed in the investigation and for the reasons stated below, pursuant to section 735 of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d), I hereby determine that melamine in crystal form from Austria is

[redacted]

being or is likely to be, sold in the United States at less than its fair value.

Statement of Reasons for this Determination

a. Scope of the Investigation. All of the subject merchandise from Austria sold for export to the United States during the investigatory period (November 1, 1978, through March 31, 1979) was sold by Chemie Linz, A.G. The investigation, therefore, was limited to this company.

b. Basis of Comparison. For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such merchandise. Purchase price, as defined in section 772 of the Tariff Act of 1930, as amended (93 Stat. 181, 19 U.S.C. 1677a), was used since all United States sales were made to one unrelated customer prior to the importation of the merchandise. Home market price, as defined in section 353.3, Commerce Regulations (19 CFR 353.3, 45 Fed. Reg. 8191), was used since such merchandise was sold in sufficient quantities in the home market to provide an adequate basis of comparison for fair value purposes.

In accordance with section 353.38(a), Commerce Regulations (19 CFR 353.38(a), 45 Fed. Reg. 8200), pricing information gathered concerning sales to the United States and home market sales during the period November 1, 1978, through March 31, 1979.

c. Purchase Price. For purposes of this determination, purchase price has been calculated on the basis of the CIF price to the unrelated United States customer. Deductions have been made for commissions, United States inland freight, ocean freight, insurance and foreign inland freight, where applicable.

Counsel for the petitioner has challenged the acceptance of the respondent's reported freight costs on grounds that the rates are too low to reflect all ocean freight and inland freight components. Information obtained during the investigation, however, supports the reported figures and their use in the determination of purchase price.

d. Home Market Prices. For the purposes of this determination, the fair value has been calculated on the basis of the weighted-average price in the home market to unrelated purchasers. A claim for use of a preponderant price instead of a weighted average price as the basis of fair value was not allowed because the volume of sales at that price did not meet the criteria set forth in section 353.20(b), Commerce Regulations (19 CFR 353.20(b), 45 Fed. Reg. 8195). In another approach, the respondent made a claim for use of that "preponderant" price to a particular purchaser as the basis of fair value on grounds that, of all home market purchasers, this purchaser represents a level of trade most similar to that of the U.S. purchaser. This claim was also disallowed, because no acceptable quantification or formalization of price differentials based on differences in level of trade was demonstrated as required for consideration under section 353.19, Commerce Regulations (19 CFR 353.19, 45 Fed. Reg. 8194). Deductions were made for inland freight and an offset against a commission allowed in the United States. Costs allowed in this offset included technical assistance and servicing, storage costs and sales costs. A claim for inclusion of a commission in the offset was allowed in the preliminary determination, but has been reexamined at the request of counsel for the petitioner. Review of the facts indicates that the commission was paid for services which do not qualify as other selling expenses for offset purposes under section 353.15(c), Commerce Regulations (19 CFR 353.15(c), 45 Fed. Reg. 8194). Accordingly, the commission has been disallowed in arriving at the final determination. The allowance for technical assistance and servicing was also challenged on grounds that the investigation failed to verify the amount claimed by the respondent. Nevertheless, the offset has been retained, because the existence of such customer services was verified by the investigation and the amount claimed was considered reasonable. Other adjustments were made for differences in credit terms and packing costs.

e. Result of Fair Value Comparisons. Using the above criteria, purchase price is lower than the home market price of such merchandise. Comparisons were made on 100 percent of the sales to the United States during the period of investigation. Margins were found on 100 percent of the sales examined. The margins range from 7.76 to 27.53 percent and the weighted average margin is 12.16 percent.

Verification of submitted data was accomplished by random selection of response information and subsequent examination of related financial ledgers, records and commercial documents at the respondent's premises.

Interested persons have been provided an opportunity to present views in accordance with section 353.44(e), Commerce Regulations (19 CFR 353.44(e), 45 FR 8203).

This notice is published pursuant to section 353.44(f), Commerce Regulations (19 CFR 353.44(f), 45 FR 8203).

20 MAR 198

Stanley J. Marcuss
Acting Assistant Secretary for
Trade Administration

Certified to be a true
copy of the original

Certifying Officer
International Trade Administration
Department of Commerce

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UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

20 MAR 1980

The Honorable
Catherine Bedell
Chairman, International
Trade Commission
Washington, D.C. 20436

Dear Madam Chairman:

In accordance with section 735(a) of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d(a)(the Act), the Department of Commerce has determined that melamine from Italy is being sold at less than fair value within the meaning of section 731 of the Act (93 Stat. 162, 19 U.S.C. 1673). Pursuant to section 735(d) of the Act, (93 Stat. 172, 19 U.S.C. 1673d(d)), you are hereby formally advised of this determination and the bases for the determination which are specified in the attached copy of the Federal Register notice.

Pursuant to section 735(c)(1)(A) of the Act (93 Stat. 171, 19 U.S.C. 1673d(c)(1)(A)), you will be accorded full access to all nonprivileged and non-confidential information in our files. All privileged and confidential information in the files will be made available upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under administrative protective order, without the express written consent of the Assistant Secretary for Trade Administration.

Sincerely,

Stanley J. Marcuss
Acting Assistant Secretary for
Trade Administration

[redacted]

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

MELAMINE IN CRYSTAL FORM FROM ITALY

ANTIDUMPING: DETERMINATION OF SALES AT LESS THAN FAIR VALUE

AGENCY: U.S. Department of Commerce

ACTION: Final Determination of Sales at Less Than Fair Value

SUMMARY:

This notice is to advise the public that it has been determined that melamine in crystal form from Italy has been sold to the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended. Sales at less than fair value generally occur when merchandise exported to the United States is sold in the United States at a price which is less than (a) the price of such or similar merchandise sold in the home market, (b) in the absence of a viable home market, the price at which it is sold in a third country, or (c) a constructed value.

EFFECTIVE DATE:

(Date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT:

Stuart Keitz, Office of Investigations, International Trade Administration, U.S. Department of Commerce, N.W., Washington, D.C. 20230 (202-566-5492).

SUPPLEMENTARY INFORMATION:

On March 23, 1979, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Melamine Chemicals, Inc. (MCI), Donaldsonville, Louisiana, alleging that imports of melamine in crystal form from Italy are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq*.). An "Antidumping Proceeding Notice" indicating that there was evidence on record concerning injury to, or likelihood of injury to, an industry in the United States was published in the *Federal Register* of May 1, 1979 (44 Fed. Reg. 25555). A "Withholding of Appraisement Notice" was published in the *Federal Register* on November 13, 1979 (44 Fed. Reg. 65515).

The merchandise under consideration is described as "melamine in crystal form" provided for in item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

In accordance with section 102(b)(2) of the Trade Agreements ACT of 1979 (19 USC 1671 note), this matter is being treated as if a preliminary determination under section 733 of the Tariff Act of 1930, as amended (93 Stat. 163, 19 USC 1673b) had been made on January 1, 1980. Accordingly, liquidation has been suspended on all entries, or withdrawals from warehouse, for consumption of the subject merchandise from Italy on or after the date of publication of the "Withholding of Appraisement Notice" in the *Federal Register*.

Final Determination of Sales at Less Than Fair Value

On the basis of the information developed in the investigation and for the reasons stated below, pursuant to section 735 of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d), I hereby determine that melamine in crystal form from Italy is being, or is likely to be, sold in the United States at less than its fair value.

Statement of Reasons for this Determination

a. Scope of the Investigation. Virtually all the subject merchandise from Italy sold for export to the United States during the investigatory period (November 1, 1978, through April 30, 1979) was sold by Montedison, S.p.A. The investigation, therefore, was limited to this company.

b. Basis of Comparison. For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and the home market price of such merchandise. Purchase price, as defined in section 772 of the Tariff Act of 1930, as amended (93 Stat. 181, 19 U.S.C. 1677a), was used since all United States sales were made to unrelated customers prior to the importation of the merchandise. Home market price, as defined in section 353.3, Commerce Regulations (19 CFR 353.3, 45 Fed. Reg. 8191), was used since such merchandise was sold in sufficient quantities in the home market to provide an adequate basis of comparison for fair value purposes.

In accordance with section 353.38(a), Commerce Regulations (19 CFR 353.38(a), 45 Fed. Reg. 8200), pricing information was gathered concerning sales to the United States and home market sales during the period November 1, 1978, through April 30, 1979.

c. Purchase Price. For purposes of this determination, purchase price has been calculated on the basis of the CIF, duty-paid price to the unrelated United States customer. Deductions have been made for ocean freight, brokerage fees, duty, and foreign inland freight, where applicable.

d. Home Market Prices. For the purposes of this determination, fair value has been calculated on the basis of the weighted-average price in the home market to unrelated purchasers. A deduction was made for inland freight and an adjustment was made for a packing differential. Adjustments claimed for year-end discounts and discounts for cash payment or payment in advance were not allowed because they could not be adequately quantified nor could they be directly related to the sales under consideration, as required by section 353.15, Commerce Regulations (39 CFR 353.15, 45 Fed. Reg. 8194). A claimed adjustment for technical services was not allowed since this was not directly attributable to sales under consideration as required by section 353.15 but rather was more in the nature of an expense for general research and development. Claimed adjustments for salesmen's salaries, administrative expenses, and inventory warehousing costs were not allowed since these were not directly related to the sales under consideration as required by section 353.15.

e. Result of Fair Value Comparisons. Using the above criteria, purchase price is lower than the home market price of such merchandise. Comparisons were made on 100 percent of the sales to the United States during the period of investigation. Margins were found on 100 percent of the sales examined. The margins range from 15.2 to 34.4 percent, and the weighted average margin is 31.05 percent.

Verification of submitted data was accomplished by random selection of response information and subsequent examination of related financial ledgers, records and commercial documents at the respondent's premises.

Interested persons have been provided an opportunity to present views in accordance with section 353.44(e), Commerce Regulations (19 CFR 353.44(e), 45 Fed. Reg. 8203).

This notice is published pursuant to section 353.44(f), Commerce Regulations (19 CFR 353.44(f) 45 Fed. Reg. 8203).

18 MAR 1980

Stanley J. Marcuss
Acting Assistant Secretary for
Trade Administration

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Certifying Officer
International Trade Administration
Department of Commerce

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UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

21 MAR 1980

The Honorable
Catherine Bedell
Chairman, International
 Trade Commission
Washington, D.C. 20436

Dear Madam Chairman:

In accordance with section 735(a) of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d(a)(the Act), the Department of Commerce has determined that melamine from the Netherlands is being sold at less than fair value within the meaning of section 731 of the Act (93 Stat. 162, 19 U.S.C. 1673). Pursuant to section 735(d) of the Act, (93 Stat. 172, 19 U.S.C. 1673d(d)), you are hereby formally advised of this determination and the bases for the determination which are specified in the attached copy of the *Federal Register* notice.

Pursuant to section 735(c)(1)(A) of the Act (93 Stat. 171, 19 U.S.C. 1673d(c)(1)(A)), you will be accorded full access to all nonprivileged and non-confidential information in our files. All privileged and confidential information in the files will be made available upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under administrative protective order, without the express written consent of the Assistant Secretary for Trade Administration.

Sincerely,

Stanley J. Marcuss
Acting Assistant Secretary for
 Trade Administration

3510-22 [redacted]

DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION

MELAMINE IN CRYSTAL FORM FROM THE NETHERLANDS

ANTIDUMPING: DETERMINATION OF SALES AT LESS THAN FAIR VALUE.

AGENCY: U.S. Department of Commerce

ACTION: Final Determination of Sales at Less Than Fair Value

SUMMARY:

This notice is to advise the public that it has been determined that melamine in crystal form from the Netherlands has been sold to the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended. Sales at less than fair value generally occur when merchandise exported to the United States is sold in the United States at a price which is less than (a) the price of such or similar merchandise sold in the home market, (b) in the absence of a viable home market, the price at which it is sold in a third country, or (c) a constructed value.

EFFECTIVE DATE:

(Date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT:

Stuart Keitz, Office of Investigations, International Trade Administration, U.S. Department of Commerce, N.W., Washington, D.C. 20230 (202-566-5492).

SUPPLEMENTARY INFORMATION:

On March 23, 1979, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Melamine Chemicals, Inc. (MCI), Donaldsonville, Louisiana, alleging that imports of melamine in crystal form from the Netherlands are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). An "Antidumping Proceeding Notice" indicating that there was evidence on record concerning injury to, or likelihood of injury to, an industry in the United States was published in the Federal Register of May 1, 1979 (44 Fed. Reg. 25555). A "Tentative Determination of Sales at Not Less than Fair Value" was published in the Federal Register on November 13, 1979 (44 Fed. Reg. 65517-65518). Subsequently, after discovery of a computational error which changed the results, an "Amendment to Tentative Determination and Suspension of Liquidation" was published in the Federal Register of February 26, 1980 (45 Fed. Reg. 12466).

The merchandise under consideration is described as "melamine in crystal form" provided for in item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

In accordance with section 102(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), this matter is being treated as if a preliminary determination under section 733 of the Tariff Act of 1930, as amended (93 Stat. 163, 19 U.S.C. 1673b), had been made on January 1, 1980. Accordingly, liquidation has been suspended on all entries, or withdrawals from warehouse, for consumption of the subject merchandise from the Netherlands on or after the date of publication of the amended notice in the Federal Register.

Final Determination of Sales at Less than Fair Value

On the basis of the information developed in the investigation and for the reasons stated below, pursuant to section 735 of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d), I hereby determine that melamine in crystal form from the Netherlands is being, or is likely to be, sold in the United States at less than the fair value.

Statement of Reasons for this Determination

a. Scope of the Investigation. All of the subject merchandise from the Netherlands sold for export to the United States during the investigatory period (November 1 1978, through March 31, 1979) was produced and exported by Naamloze Vennootschap (DSM). The investigation, therefore, was limited to this company.

b. Basis of Comparison. For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between the purchase price and foreign market value based on sales to a third country of such merchandise. Purchase price, as defined in section 772 of the Tariff Act of 1930, as amended (93 Stat. 181, 19 U.S.C. 1677a), was used since all United States sales were made to unrelated customers prior to the importation of the merchandise.

Foreign market value, based on sales to a third country, as defined in section 353.5, Commerce Regulations (19 CFR 353.5, 45 Fed. Reg. 8191), was used since such or similar merchandise was sold in insufficient quantities in the home market to provide an adequate basis of comparison for fair value purposes (section 353.4, Commerce Regulations, (19 CFR 353.4, 45 Fed. Reg. 8191)).

In accordance with section 353.38(a), Commerce Regulations (19 CFR 353.38(a), 45 Fed. Reg. 8200), pricing information was gathered concerning sales to the United States and third country sales during the period November 1, 1978, through March 31, 1979.

c. Purchase Price. For purposes of this determination, purchase price has been calculated on the basis of the CIF duty paid price to unrelated United States customers. Deductions have been made for United States duties, United States inland freight, ocean freight, insurance, foreign inland freight, customs clearance and bank fees, where applicable.

Counsel for the petitioner has challenged the acceptance of the respondent's reported freight costs on grounds that the rates are too low to reflect all ocean freight and inland freight components. Information obtained during the investigation, however, supports the reported figures and their use in the determination of purchase price.

d. Foreign Market Value. For the purposes of this determination, fair value has been calculated on the basis of the weighted-average price to all unrelated purchasers in the largest third country market, West Germany. Selection of the West German market was made in accordance with section 353.5(c)(2), Commerce Regulations (19 CFR 353.5(c)(2), 45 Fed. Reg. 8191).

Deductions were made for inland freight, insurance and a commission. Adjustments were also made for differences in packing costs.

Counsel for the respondent contended that only bulk sales to West Germany should be considered in making comparisons with sales to the United States. This contention was based on two assertions: (1) that all sales to the United States are bulk sales and (2) that bulk sales constitute sales in the usual wholesale quantities as defined in section 771(17) Tariff Act of 1930, as amended (93 Stat. 181, 19 U.S.C. 1677). Neither assertion was supported by information developed during the investigation.

Petitioner's counsel protested that the allowance for commission in West German sales was not offset by selling expenses in the United States market. Section 353.15(c), Commerce Regulations (19 CFR 353.15(c), 45 Fed. Reg. 8194) provides for such an offset of commissions in one market with selling expenses in the other market if no commissions exist in such other market. A limitation is placed on the magnitude of the offset by the proviso that it not exceed the amount of the commission being offset or the actual amount of the selling expenses, whichever is less. In this instance, the investigation did not report any selling expenses incurred by the respondent in the United States. Consequently, no offset was made.

Results of Fair Value Comparisons

Using the above criteria, purchase price is lower than the price to third countries of such merchandise. Comparisons were made on

100 percent of the sales to the United States during the period of investigation. Margins were found on 93.5 percent of the sales examined. The margins range from 1.97 percent to 4.64 percent and the weighted average margin over all sales considered was 2.18 percent.

Respondent's counsel contended that the margins were entirely due to a temporary surge in the rate of exchange of the West German mark. Examination of rates of exchange prior to and after the period of investigation do reveal significant and sustained increases in the value of the West German mark against the dollar during the fourth quarter of 1978 and the first quarter of 1979. Data obtained during the investigation reveals that, in spite of the fluctuation which became evident early in October 1978, the respondent did not act within a reasonable period of time to adjust prices accordingly. Consequently, the facts do not support disregard of the margins based on section 353.56(b), Commerce Regulations (19 CFR 353.56(b), 45 Fed. Reg. 8206).

Verification of submitted data was accomplished by random selection of response information and subsequent examination of related financial ledgers, records and commercial documents at the respondent's premises.

Interested persons have been provided an opportunity to present views in accordance with section 353.44(e), Commerce Regulations (19 CFR 353.44(e), 45 Fed. Reg. 8203).

This notice is published pursuant to section 353.44(f), Commerce Regulations (19 CFR 353.44(f), 45 Fed. Reg. 8203).

20 MAR 1980

Stanley J. Marcuss
Acting Assistant Secretary for
Trade Administration

[redacted]

APPENDIX C

COMMISSION'S NOTICE OF INVESTIGATION AND HEARING WITH RESPECT TO MELAMINE FROM AUSTRIA AND ITALY

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

Notice of Institution of Antidumping Investigations and Scheduling of Hearings

AGENCY: United States International Trade Commission

ACTION: Institution of three antidumping investigations to determine whether with respect to the articles involved an industry in the United States is materially injured, or is threated with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports sold or likely to be sold at less than fair value.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: The supervisory investigator assigned by the Commission to the particular investigation for which the information is sought. The assignments of supervisory investigators and their telephone numbers at the Commission are designated below.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, section 102(b)(2), requires the Commission to conduct antidumping investigations in cases where on January 1, 1980, the Secretary of the Treasury has made a tentative determination, but not a final determination, under the Antidumping Act, 1921, as to the question of less-than-fair-value sales. Accordingly, the Commission hereby gives notice that, effective as of January 1, 1980, it is instituting the following investigations pursuant to section 735 of the Tariff Act of 1930, as added by title I of the Trade Agreements Act of 1979. These investigations will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457) and, particularly, Subpart C thereof, effective January 1, 1980.

Written submissions. Any person may submit to the Commission on or before the prehearing statement due date specified below for the relevant investigation a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Hearings. The Commission has scheduled a hearing in each investigation on the date specified below. A report containing preliminary findings of fact prepared by the Commission's professional staff will be made available to all interested persons prior to the hearing. Any person's prehearing statement must be filed on or before the indicated date. All parties that desire to appear at the hearing and make oral presentations must file prehearing statements. For further information consult the Commission's Rules of Practice and Procedure, Part 207, Subpart C (44 FR 76457), effective January 1, 1980.

By order of the Commission.

Kenneth R. Mason
Secretary

Issued:

ANTIDUMPING INVESTIGATIONS

Inv. No.	Product/Country	Tentative hearing date	Hearing location	Contact person
731-TA-12 (Final)	Portable electric typewriters, provided for in TSUS item 676.05/Japan	Apr. 10, 1980	ITC Building Washington, D.C.	Bruce Cates 523-0368
731-TA-13 (Final)	Melamine in crystal form, provided for in TSUS item 425.10/Austria	Apr. 11, 1980	ITC Building Washington, D.C.	John MacHa 523-04
731-TA-14 (Final)	Melamine in crystal form, provided for in TSUS item 425.10/Italy	Apr. 11, 1980	ITC Building Washington, D.C.	John MacHat 523-0439

APPENDIX D

COMMISSION'S NOTICE OF INVESTIGATION AND HEARING WITH RESPECT TO MELAMINE FROM THE NETHERLANDS

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products, from Pasco, WA and Boardman and Metolius, OR to points in CA, restricted to traffic moving from the facilities of U & I, Inc., for 180 days. Supporting shipper: U & I, Inc., P.O. Box 2308, Tri-Cities, WA 99302.

MC 138026 (Sub-No. 6-1TA), filed March 5, 1980. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, 1890 South Chris Lane, Anaheim, California 92805. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Boulevard, 1800 United California Bank Building, Los Angeles, California 90017. *helium* from Elkhart, Liberal, Ulysses, KS and Keyes, OK to Los Angeles, Santa Clara, San Mateo Counties, CA; Platteville, CO; Bladensburg, MD; Camden, NJ; Hightstown, NJ and Renton, WA. An underlying ETA seeks 90 days authority. Supporting shipper: Mr. William G. Walker, Regional Distribution Manager, Air Products and Chemicals, Inc., 2021 East Rosecrans Boulevard, El Segundo, California 90245.

W-587 (Sub-6-1TA), filed February 6, 1980. Applicant: FOSS L & T CO, a corporation, 660 West Ewing Street, Seattle, WA 98119. Representative: Thomas E. Kimball and Richard C. Jones, Attorneys at Law, Two Embarcadero Center, San Francisco, CA 94111. By decision entered February 15, 1980, the Region 6 Motor Carrier Board granted applicant 60-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of a *nuclear steam generator*, from the facility of Surry Reactor, at or near Surry, VA to Port of Benton, Richland, WA via James River, Straits of Florida, Yucatan Straits, Panama Canal and Columbia River, under a contract with Battelle Memorial Institute for the U.S. Department of Energy, and the U.S. Nuclear Regulatory Commission, Richland, WA. Any interested person may file a petition for reconsideration with the Regional Motor Carrier Board, Interstate Commerce Commission, Post Office Box 7413, San Francisco, CA 94120 within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-8060 Filed 3-14-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

Institution of Final Antidumping Investigation and Scheduling of Hearings, 731-TA-16 (Final): Melamine in Crystal Form, Provided for in TSUS Item 425.10, From the Netherlands

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation under section 735(b) of the Tariff Act of 1930 to determine whether with respect to melamine in crystal form (provided for in TSUS item 425.10) from the Netherlands there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise allegedly sold or likely to be sold at less then fair value.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION, CONTACT: John MacHatton (202) 523-0439, the supervisory investigator.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, section 735(b)(2), requires that the Commission make a final antidumping determination in cases where the administering authority has issued an affirmative preliminary determination under section 733(b) as to the question of less-than-fair-value sales. Accordingly, the Commission hereby gives notice that, effective as of February 26, 1980, it is instituting Investigation No. 731-TA-16 (final) pursuant to section 735(b) of the Tariff Act of 1930, as added by Title I of the Trade Agreements Act of 1979. This investigation will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76457) and, particulary, Subpart B thereof, effective January 1, 1980.

WRITTEN SUBMISSIONS: Any person may submit to the Commission by April 8, 1980 a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen true copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of sec. 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

HEARING: The Commission has scheduled a hearing in this investigation beginning at 10:00 a.m., e.s.t. on April 11, 1980, in the Hearing Room, U.S. International Trade Commission Building. Parties wishing to participate in the Hearing should notify the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. A preliminary staff report will be available to all interested parties on March 25, 1980. Any person's prehearing statement must be filed by April 8, 1980. All parties who desire to appear at the hearing and make oral presentations must file prehearing statements. For further information consult the Commission's rules of practice and procedure, Part 207, Subpart C (44 FR 76457), effective January 1, 1980.

Issued: March 13, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-8250 Filed 3-14-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation; Competitive Research Cooperative Agreement

The National Institute of Justice announces a competitive research cooperative agreement program to evaluate Jail Pretrial Release Recommendation/Decision Systems. The purpose of this evaluation award is to assess the operations and effectiveness of these systems. Key research questions in this evaluation are:

1. Have Jail Pretrial Release Recommendation/Decision Systems been effective and, if so, what factors have contributed to their effectiveness?
2. Are Jail Pretrial Release Recommendation/Decision Systems able to impact jail population levels?
3. Are Jail Pretrial Release Recommendation/Decision Systems cost effective?

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than April 15, 1980. This cooperative agreement is planned for award in June, 1980 with funding support not to exceed

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APPENDIX E

TREASURY'S NOTICES OF ITS TENTATIVE DETERMINATIONS WITH RESPECT TO MELAMINE FROM AUSTRIA AND ITALY

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Paragraph S6.5(b) of Standard No. 119 requires tires to be marked with the tire identification number required by 49 CFR Part 574 and S6.5(b) requires them to be labeled with "the actual number of plies . . . in the sidewall . . . ." Hyosung has imported and distributed 2000 "Aurora–F8 1000–20 Load Range F" truck tires that lack marking indicating the week and year of manufacture (the 19th week of 1979) and 200 of these also lack the number of nylon tread plies (10) and nylon plies (8). Notwithstanding the filing of a petition Hyosung is attempting to correct the noncompliance of tires in the hands of its dealers, as well as on 14,553 additional tires in its own possession. All other information is said to be correct and petitioner believes that its noncompliances are inconsequential as it relates to motor vehicle safety since in its opinion manufacturing dates are unimportant, and the model number of the tire is clearly understood by the dealer.

Interested persons are invited to submit written data, views and arguments on the petition of Hyosung (America) Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: December 12, 1979.

(Sec. 102, Pub. L. 93–492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.1)

Issued on: November 5, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79-34825 Filed 11-9-79; 8:45 am]

BILLING CODE 4910-59-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 1:30 p.m., November 30, 1979, in the offices of the Seaway Corporation, 800 Independence Avenue, SW., Washington, D.C. The agenda for this meeting is as follows: Opening Remarks; Approval of Minutes; Administrator's Report; Review of Programs and Operations; and Closing Remarks.

Attendance is open to the interested public, but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than November 28, 1979, and information may be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, SW., Washington, D.C. 20591; 202–426–3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued in Washington, D.C., on November 2, 1979.

D. W. Oberlin,

Administrator.

[FR Doc. 79-34887 Filed 11-9-79; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 79-291; FIS-9-05-A:A:0]

Reimbursable Services—Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with pay period beginning November 18, 1979.

Installation:	*Biweekly excess cost*
Montreal, Canada	$14,30
Toronto, Canada	23,61
Kindley Field, Bermuda	7,90
Nassau, Bahama Islands	20,39
Vancouver, Canada	8,05
Winnipeg, Canada	1,83
Freeport, Bahama Islands	14,57
Calgary, Canada	6,97

Jack T. Lacy,

Comptroller.

[FR Doc. 79-34880 Filed 11-9-79; 8:45 am]

BILLING CODE 4810-22-M

Melamine in Crystal Form From Italy; Antidumping: Withholding of Appraisement Notice

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that there are sales of melamine in crystal form from Italy at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.) Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action.

EFFECTIVE DATE: November 13, 1979.

FOR FURTHER INFORMATION CONTACT: Stuart Keitz, Trade Analysis Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 23, 1979, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Melamine Chemicals, Inc. (MCI), Donaldsonville, Louisiana, alleging that imports of melamine in crystal form from Italy are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (the "Act"). An "Antidumping Proceeding Notice" indicating that there was evidence on record concerning injury to, or likelihood of injury to, an industry in the United States was published in the Federal Register of May 1, 1979 (44 FR 25555).

The merchandise under consideration is described as "melamine in crystal form" provided for in item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

Tentative Determination of Sales at Less Than Fair Value

On the basis of the information developed in Customs' investigation and for the reasons stated below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of melamine in crystal form from Italy is less than the fair value, and thereby the

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foreign market value, of such merchandise.

Statement of Reasons on Which This Determination Is Based

a. *Scope of the Investigation.* It appears that 100 percent of the imports of the subject merchandise from Italy sold for export to the United States during the investigatory period (November 1, 1978, through April 30, 1979) were sold by Montedison, S.p.A. The investigation therefore was limited to this company.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between the purchase price and the home market price of such merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all United States sales were made to unrelated customers prior to the exportation of the merchandise.

Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such merchandise appears to have been sold in sufficient quantities in the home market to provide a basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was gathered concerning sales to the United States and home market sales during the period November 1, 1978 through April 30, 1979.

c. *Purchase Price.* For purposes of this tentative determination of sales at less than fair value, purchase price has been calculated on the basis of the CIF, duty-paid price to the unrelated United States customer. Deductions have been made for ocean freight, marine insurance, U.S. inland freight, brokerage fees, duty, and foreign inland freight, were applicable.

d. *Home Market Prices.* For the purposes of this tentative determination of sales at less than fair value, the fair value has been calculated on the basis of the weighted-average price in the home market to unrelated purchasers. A deduction was made for inland freight and an adjustment was made for a packing differential. Adjustments claimed for year-end discounts and discounts for cash payment or payment in advance were not allowed because they could not be adequately quantified nor could they be directly related to the sales under consideration, as required by § 153.10, Customs Regulations (19 CFR 153.10). A claimed adjustment for technical services was not allowed since this was not directly attributable to sales under consideration as required by § 153.10, but rather was more in the nature of an expense for general research and development. A claimed adjustment for salesmen's salaries, administrative expenses, and inventory warehousing costs was not allowed since these were not directly related to the sales under consideration, as required by § 153.10.

e. *Result of Fair Value Comparisons.* Using the above criteria, purchase price appears to be lower than the home market price of such merchandise. Comparisons were made on 100 percent of the sales to the United States during the period of investigation. Margins were found on 100 percent of the sales examined. The overall weighted-average margin was 31.05 percent.

Accordingly, Customs officers are being directed to withhold appraisement of melamine in crystal form from Italy in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

If the final determination in this case is not made by December 31, 1979, then in accordance with section 102(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), a final determination will be made no later than March 17, 1980.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be submitted to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office no later than November 27, 1979.

Such requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief. All written views or arguments likewise should be submitted to the Commissioner of Customs in 10 copies in time to be received in his office no later than December 13, 1979.

All persons submitting views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and the respondent are also requested to serve all written submissions on all other counsel, including non-confidential summaries or approximated presentations of all confidential information.

This notice, which is published pursuant to § 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective on November 13, 1979. It shall cease to be effective 6 months from the date of publication, unless previously revoked.

Robert H. Mundheim,

General Counsel of the Treasury.

November 1, 1979.

[FR Doc. 79-34946 Filed 11-9-79; 8:45 am]

BILLING CODE 4810-22-M

Office of the Secretary

Melamine in Crystal Form From Austria; Antidumping: Withholding of Appraisement Notice

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that there are sales of melamine in crystal form from Austria at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.) Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action.

EFFECTIVE DATE: November 13, 1979.

FOR FURTHER INFORMATION CONTACT: Stuart S. Keitz, Trade Analysis Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 23, 1979, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Melamine Chemicals, Inc. (MCI), Donaldsonville, Louisiana, alleging that imports of melamine in crystal form from Austria are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) ("the Act"). An "Antidumping Proceeding Notice" indicating that there was evidence on record concerning injury to, or likelihood of injury to, an industry in the United States was published in the Federal Register of May 1, 1979 (44 FR 25555).

The merchandise under consideration is described as "melamine in crystal form" provided for in item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

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Tentative Determination of Sales at Less Than Fair Value

On the basis of the information developed in Customs investigation and for the reasons stated below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of melamine in crystal form from Austria is less than the fair value, and thereby the foreign market value, of such or similar merchandise.

Statement of Reasons on Which This Determination Is Based

a. *Scope of the Investigation.* It appears that 100 percent of the imports of the subject merchandise from Austria sold for export to the United States during the investigatory period (November 1, 1978, through April 30, 1979) was sold by Chemie Linz A.G. The investigation therefore was limited to this company.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between the purchase price and the home market price of such merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all United States sales were made to an unrelated customer prior to the exportation of the merchandise.

Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such merchandise appears to have been sold in sufficient quantities in the home market to provide an adequate basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was gathered concerning sales to the United States and home market sales during the period November 1, 1978, through April 30, 1979.

c. *Purchase Price.* For purposes of this tentative determination of sales at less than fair value, purchase price has been calculated on the basis of the CIF, duty-paid price to the unrelated United States customer. Deductions have been made for ocean freight, marine insurance, U.S. and European inland freight, and a U.S. sales commission, where applicable.

d. *Home Market Price.* For the purposes of this tentative determination of sales at less than fair value, the fair value has been calculated on the basis of the weighted-average price in the home market to unrelated purchasers. Deductions were made for inland freight and for certain home market expenses as offsets to the commission on U.S. sales. Additions were made for differences in U.S. credit costs and packing costs. The respondent claimed that a clear preponderance of home market sales at the same price existed, and that § 153.16, Customs Regulations (19 CFR 153.16), required such price to be utilized to establish fair value, rather than a weighted-average price. However, Customs investigation determined that there was no such clear preponderance, and therefore a weighted-average home market price was employed.

e. *Result of Fair Value Comparisons.* Using the above criteria, purchase price appears to be lower than the home market price of such merchandise. Comparisons were made on 100 percent of the sales to the United States during the period November 1978, through March 1979. Margins were found on 100 percent of the sales examined. Margins ranged from approximately 7 percent to 30 percent, with an overall weighted-average of 13.43 percent.

Accordingly, Customs officers are being directed to withhold appraisement of melamine in crystal form from Austria pursuant to § 153.48, Customs Regulations (19 CFR 153.48).

If a final determination is not made by December 31, 1978, then in accordance with section 102(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), a final determination will be made not later than March 17, 1980.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be submitted to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office no later than November 27, 1979.

Such requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief. All written views or arguments likewise should be submitted to the Commissioner of Customs in 10 copies in time to be received in his office no later than December 13, 1979. All persons submitting views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and the respondent are also requested to serve all written submissions on all other counsel, including non-confidential summaries or approximated presentations of all confidential information.

This notice, which is published pursuant to § 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective on November 13, 1979. It shall cease to be effective 6 months from the date of publication, unless previously revoked.

Robert H. Mundheim,
General Counsel of the Treasury.
November 6, 1979.

[FR Doc. 79-34947 Filed 11-9-79; 8:45 am]
BILLING CODE 4810-22-M

Melamine In Crystal Form From the Netherlands; Antidumping; Tentative Determination of Sales at Not Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Tentative Determination of Sales at Not Less Than Fair Value.

SUMMARY: This notice is to advise the public that there is no reason to believe or suspect that melamine in crystal form from the Netherlands is being sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921. Interested persons are invited to comment on this action.

EFFECTIVE DATE: November 13, 1979.

FOR FURTHER INFORMATION CONTACT: Stuart Keitz, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On March 23, 1979, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Melamine Chemicals, Inc. (MCI), Donaldsonville, Louisiana, alleging that imports of melamine in crystal form from the Netherlands are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (the "Act"). An "Antidumping Proceeding Notice" indicating that there was evidence on record concerning injury to, or likelihood of injury to, an industry in the United States was published in the Federal Register of May 1, 1979 (44 FR 25555).

The merchandise under consideration is described as "melamine in crystal form" provided for in item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

Tenative Determination of Sales at Not Less Than Fair Value

On the basis of the information developed in Customs' investigation and

APPENDIX F

TREASURY'S NOTICE OF ITS TENTATIVE NEGATIVE DETERMINATION WITH RESPECT TO MELAMINE FROM THE NETHERLANDS

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~~*Tentative Determination of Sales at Less Than Fair Value*~~

~~On the basis of the information developed in Customs investigation and for the reasons stated below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of melamine in crystal form from Austria is less than the fair value, and thereby the foreign market value, of such or similar merchandise.~~

~~*Statement of Reasons on Which This Determination Is Based*~~

~~a. *Scope of the Investigation.* It appears that 100 percent of the imports of the subject merchandise from Austria sold for export to the United States during the investigatory period (November 1, 1978, through April 30, 1979) was sold by Chemie Linz A.G. The investigation therefore was limited to this company.~~

~~b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between the purchase price and the home market price of such merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all United States sales were made to an unrelated customer prior to the exportation of the merchandise.~~

~~Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2) was used since such merchandise appears to have been sold in sufficient quantities in the home market to provide an adequate basis of comparison for fair value purposes.~~

~~In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was gathered concerning sales to the United States and home market sales during the period November 1, 1978, through April 30, 1979.~~

~~c. *Purchase Price.* For purposes of this tentative determination of sales at less than fair value, purchase price has been calculated on the basis of the CIF, duty-paid price to the unrelated United States customer. Deductions have been made for ocean freight, marine insurance, U.S. and European inland freight, and a U.S. sales commission, where applicable.~~

~~d. *Home Market Price.* For the purposes of this tentative determination of sales at less than fair value, the fair value has been calculated on the basis of the weighted-average price in the home market to unrelated purchasers. Deductions were made for inland freight and for certain home market expenses as offsets to the commission on U.S. sales. Additions were made for differences in U.S. credit costs and packing costs. The respondent claimed that a clear preponderance of home market sales at the same price existed, and that § 153.16, Customs Regulations (19 CFR 153.16), required such price to be utilized to establish fair value, rather than a weighted-average price. However, Customs investigation determined that there was no such clear preponderance, and therefore a weighted-average home market price was employed.~~

~~e. *Result of Fair Value Comparisons.* Using the above criteria, purchase price appears to be lower than the home market price of such merchandise. Comparisons were made on 100 percent of the sales to the United States during the period November 1978, through March 1979. Margins were found on 100 percent of the sales examined. Margins ranged from approximately 7 percent to [illegible] percent, with an overall weighted-average of 13.43 percent.~~

~~Accordingly, Customs officers are being directed to withhold appraisement of melamine in crystal form from Austria pursuant to § 153.48, Customs Regulations (19 CFR 153.48).~~

~~If a final determination is not made by December 31, 1978, then in accordance with section 102(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), a final determination will be made not later than March 17, 1980.~~

~~In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.~~

~~Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be submitted to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office no later than November 27, 1979.~~

~~Such requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief. All written views or arguments likewise should be submitted to the Commissioner of Customs in 10 copies in time to be received in his office no later than December 13, 1979. All persons submitting views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and the respondent are also requested to serve all written submissions on all other counsel, including non-confidential summaries or approximated presentations of all confidential information.~~

~~This notice, which is published pursuant to § 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective on November 13, 1979. It shall cease to be effective 6 months from the date of publication, unless previously revoked.~~

~~Robert H. Mundheim,~~
~~*General Counsel of the Treasury.*~~
~~November 6, 1979.~~

[FR Doc. 79-34947 Filed 11-9-79; 8:45 am]

BILLING CODE 4810-22-M

Melamine In Crystal Form From the Netherlands; Antidumping; Tentative Determination of Sales at Not Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Tentative Determination of Sales at Not Less Than Fair Value.

SUMMARY: This notice is to advise the public that there is no reason to believe or suspect that melamine in crystal form from the Netherlands is being sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921. Interested persons are invited to comment on this action.

EFFECTIVE DATE: November 13, 1979.

FOR FURTHER INFORMATION CONTACT: Stuart Keitz, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On March 23, 1979, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Melamine Chemicals, Inc. (MCI), Donaldsonville, Louisiana, alleging that imports of melamine in crystal form from the Netherlands are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (the "Act"). An "Antidumping Proceeding Notice" indicating that there was evidence on record concerning injury to, or likelihood of injury to, an industry in the United States was published in the Federal Register of May 1, 1979 (44 FR 25555).

The merchandise under consideration is described as "melamine in crystal form" provided for in item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

Tenative Determination of Sales at Not Less Than Fair Value

On the basis of the information developed in Customs' investigation and

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for the reasons stated below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are no reasonable grounds to believe or suspect that the purchase price of melamine in crystal form from the Netherlands is less than the fair value, and thereby the foreign market value, of such merchandise.

Statement of Reasons on Which This Determination Is Based

a. *Scope of the Investigation.* It appears that 100 percent of the imports of the subject merchandise from the Netherlands sold for export to the United States during the investigatory period (November 1, 1978, through April 30, 1979) were sold by DSM. The investigation therefore was limited to this company.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between the purchase price and the third country price of such merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all United States sales were made to unrelated customers prior to the exportation of the merchandise.

Third country price, as defined in § 153.3, Customs Regulations (19 CFR 153.3), was used since such merchandise appears to have been sold in insufficient quantities in the home market to provide an adequate basis of comparison for fair value purposes, therefore, the price at which such merchandise is sold for exportation to countries other than the United States was used. In this instance, West Germany was selected as the third country market.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was sought concerning sales to the United States, sales to countries other than the United States and home market sales during the period November 1, 1978, through April 30, 1979.

c. *Purchase Price.* For purposes of this tentative determination of sales at less than fair value, purchase price has been calculated on the basis of the CIF, duty-paid, delivered price to unrelated United States customers. Deductions have been made for ocean freight, marine insurance, duty, U.S. and European inland freight, clearance costs and bank fees, where applicable.

d. *Third Country Prices.* For the purposes of this tentative determination of sales at less than fair value, the fair value has been calculated on the basis of the weighted-average price of bulk quantities to unrelated purchasers in West Germany. A deduction was made for inland freight, insurance, and a commission. Finally, an adjustment was made for differences in packing costs.

The respondent claims that the "usual wholesale quantity", as defined in section 212(4) of the Act (19 U.S.C. 170a(4)), is in bulk or tank truck quantities, and that third country price should be based on those transactions only. Since all sales to the United States were in bulk (tank truck) quantities and nearly 80 percent of sales to West Germany also were in bulk quantities, the Department has compared melamine in crystal form sold in such quantities in West Germany with that sold in the same quantities in the United States, in accordance with § 153.15 of the Customs Regulations (19 CFR 153.15). Thus, it is not necessary to address respondent's claim.

e. *Result of Fair Value Comparisons.* Using the above criteria, comparisons were made on 79 percent of the sales to the United States during the period November 1978, through March 1979. Margins of 2.5 percent were found on 7.3 percent of the sales examined; the weighted-average margin over all sales compared was 0.18 percent. This margin is considered *de minimis.*

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be submitted to the Commissioner of Customs, 1301 Constitution avenue, NW., Washington, D.C. 20229, in time to be received by his office no later than November 27, 1979.

Such requests must be accompanied by a statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief. All written views or arguments likewise should be submitted to the Commissioner of Customs in 10 copies in time to be received in his office no later than December 13, 1979. All persons submitting views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and the respondent are also requested to send all written submissions to all other counsel, including non-confidential summaries or approximated presentations of all confidential information.

This tentative determination and the statement of the reasons thereof are published pursuant to § 153.34(a) of the customs Regulations (19 CFR 153.34(a)).

If the final determination in this case is not made by December 31, 1979, then in accordance with section 102(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), a final determination will be made not later than March 17, 1980.

Robert H. Mundheim,
General Counsel of the Treasury.
November 5, 1979.

[FR Doc. 79-34948 Filed 11-9-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte 334]

Car Service Compensation—Basic Per Diem Charges; Formula Revision in Accordance with the Railroad Revitalization and Regulatory Reform Act of 1976

Notice is hereby given that the Commission has released its revised formula (Rail Form H, 8–76) for the computation of car-hire charges for the railroad industry. Rail Form H, 8–76 was published in the Commission decision in Ex Parte No. 334, served August 10, 1977. The Commission has made some modifications to the formula as previously published.

The major changes to Rail Form H, 8–76 have been source changes in Schedule 1 and Footnotes to Schedule 1 to conform to the revised Rail Annual Report (Form R–2) and changes to Summary 3 to update AAR publication sources. Four other changes have been made to Rail Form H, 8–76, which are as follows:

1. Summary 1—Distribution of Car Repair Ownership Costs by Type of Freight-Train Car—a column was added to allow the adjustment to repair costs of the OT–37B car repairs.

2. Summary 6—Car Hire Rate Table—Hourly Rates—was corrected from daily to hourly rates.

3. Worksheet 4—Computation of Active Per Diem Car Days and Per Diem Days Payable—the ratio of total foreign car days to active foreign car days has been corrected for an oversight which did not include surplus days in the computation.

4. Worksheet 5—Formula for Calculating Cost of Capital—this worksheet was revised in an order served April 6, 1979 and is being incorporated into the formula.

Copies of the revised Rail Form H, 8–76 may be obtained from the Office Of The Secretary, Publications Room, Interstate Commerce Commission, Room 2229, Washington, DC, 20423.

Decided: November 2, 1979.

[redacted]

APPENDIX G

COMMERCE'S NOTICE OF ITS PRELIMINARY AFFIRMATIVE DETERMINATION WITH RESPECT TO MELAMINE FROM THE NETHERLANDS

BEST DOCUMENT AVAILABLE

Dated at Washington, D.C., February 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5844 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island Advisory Committee (SAC) of the Commission will convene at 5:00 p.m. and will end at 7:00 p.m., on March 19, 1980, at the Brown University, Third World Center, 155 Angell Street, Providence, Rhode Island.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is an ongoing conference planning and continuation of program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 20, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5843 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Viscose Rayon Staple Fiber From Austria Termination of Countervailing Duty Investigation

AGENCY: U.S. Department of Commerce.

ACTION: Termination of countervailing duty investigation.

SUMMARY: This notice is to advise the public that the countervailing duty petition on viscose rayon staple fiber from Austria has been withdrawn and the investigation is being terminated.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, telephone: (202) 566-5492.

SUPPLEMENTARY INFORMATION: On June 18, 1979, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the Federal Register (44 FR 53073). The notice stated that a petition had been filed by Avtex Fibers, Inc., Valley Forge, Pennsylvania, alleging that benefits conferred by the Government of Austria upon the manufacture, production, or exportation of viscose rayon staple fiber constitute the payment of bestowal of bounties or grants, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). A "Preliminary Countervailing Duty Determination" was published in the **Federal Register** on January 7, 1980 (45 FR 1468).

In accordance with section 102(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), this matter is being treated as if a preliminary determination under section 703 of the Tariff Act of 1930, as amended (19 U.S.C. 1671b) ("the Act") had been made on January 1, 1980. Accordingly, liquidation has been suspended on all entries, or withdrawals from warehouse, for consumption of viscose rayon staple fiber from Austria, on or after the date of publication of the notice of "Preliminary Countervailing Duty Determination" in the **Federal Register.**

Counsel for the petitioners submitted a letter dated January 18, 1980, indicating that in accordance with section 704(a) of the Act (19 U.S.C. 1671c(a)), they were withdrawing the petition. Pursuant to that section the Commerce Department may terminate the investigation. Notice has been given to all parties to the investigation. It has been determined that the termination of the investigation is in the public interest. Therefore, the investigation is being terminated.

Accordingly, I hereby conclude that based upon the withdrawal of the countervailing duty petition, it is appropriate to terminate this investigation and suspension of liquidation. This termination is without prejudice to the filing of a subsequent countervailing duty petition concerning the same product. This notice is published pursuant to § 355.30 of the Commerce Regulations (19 CFR 355.30).

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 80-5737 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

Antidumping—Melamine in Crystal Form From the Netherlands; Amendment to Tentative Determination and Suspension of Liquidation

On November 13, 1979, the U.S. Treasury Department published a notice of "Tentative Determination of Sales at Not Less than Fair Value" (44 FR 65517) concerning melamine in crystal form from the Netherlands. That determination was based upon *de minimis* margins which resulted from comparison of purchase price to a third country price representing fair value. Third country price was calculated from the weighted-average price of bulk quantities to unrelated purchasers in West Germany. A review of those calculations has detected a computational error stemming from a failure to make a proper adjustment for differences in bulk packing costs between the two markets. The weighted-average margin resulting from the amended comparisons is 1.93% which is not judged to be *de minimis.*

Accordingly, the form of the tentative determination is amended to an affirmative preliminary determination, and Customs officers are being directed to suspend liquidation of entries of merchandise entered or withdrawn from warehouse for consumption on or after the date of this notice in accordance with section 733(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(d)).

A final determination in this case will be made no later than March 17, 1980.

This notice shall become effective on February 26, 1980. It shall cease to be effective upon either a negative final determination under section 735(a) (19 U.S.C. 1673d(a)) or a negative injury determination by the Commission under section 735(b) (19 U.S.C. 1673(b)), unless previously revoked.

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration.

February 20, 1980.

[FR Doc. 80-5888 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

Antidumping Hearing on Melamine in Crystal Form From the Netherlands

A notice of "Tentative Determination of Sales at Not Less Than Fair Value" in connection with the antidumping investigation of melamine in crystal form from the Netherlands was signed on November 1, 1979, and published in the Federal Register on November 13, 1979 (44 FR 65517). Pursuant to section 102(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note, 93 Stat 189), in investigations where a preliminary determination, but not a final determination, was made prior to January 1, 1980, a preliminary determination under section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b, 93 Stat 163), is deemed to have been made on January 1, 1980.

The "Notice" provided an opportunity to interested parties, pursuant to § 153.40 of the Customs Regulations (19

CFR 153.40), to present written views or arguments, or to request in writing an opportunity to present oral views. Pursuant to this notice, interested parties have requested opportunities to present their views orally.

Therefore, a public hearing in the matter of melamine in crystal form from the Netherlands will be held at the U.S. Department of Commerce, Room 6802, 14th & Constitution Avenue, NW., Washington, D.C. 20230, beginning at 10:00 a.m. on Wednesday, March 5, 1980. Interested persons other than those who already have requested an opportunity to present their views may appear at the hearing provided that a written request is filed with the Office of the Assistant Secretary for Trade Administration, Room 3826, U.S. Department of Commerce, Washington, D.C. 20230.

These requests shall contain: (1) The name, address and telephone number of the requester; and (2) the number of participants and reason for attending. All requests are subject to the approval of the Assistant Secretary, and must be received by 5:00 p.m. Wednesday, March 5, 1980.

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration.

February 20, 1980.

[FR Doc. 80-5809 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Wednesday, March 12, 1980, at 1:30 p.m. in Room B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1), and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Report on the current work program of the Subcommittees:
  (a) Technology Transfer;
  (b) Foreign Availability;
  (c) Hardware; and
  (d) Licensing Procedures.

Executive Session

(4) Discussion of matters properly classified under Executive Order 11652 and 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public; a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the Federal Register on September 14, 1978 (43 FR 41073).

Copies of the minutes of the open portions of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: February 21, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, Department of Commerce.

[FR Doc. 80-5822 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, March 12, 1980, at 9:30 a.m. in Room B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was inititially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export

[redacted]

APPENDIX H

COMMERCE'S LETTER OF APRIL 15, 1980, TO THE COMMISSION

BEST DOCUMENT AVAILABLE [redacted]

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

80 APR 16 P 3: 30
OFFICE OF THE SECRETARY
DOCKET / USITC

APR 15 1980

Rec'd 4/16

The Honorable
Catherine Bedell
Chairman, International
Trade Commission
Washington, D.C. 20436

Dear Madam Chairman:

In a letter dated March 21, 1980, this office informed you that, in accordance with section 735(a) of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d(a)), the Department of Commerce had determined that melamine in crystal form from the Netherlands is being sold at less than fair value.

This is to notify you that following clarification of certain facts not previously considered, we have concluded that our original determination was incorrect. Please be advised that the evidence on hand reveals that melamine in crystal form from the Netherlands is not being sold at less than fair value. The enclosed copy of the Federal Register Notice amending our determination describes the bases for this decision.

Sincerely,

John D. Greenwald

John D. Greenwald
Deputy Assistant Secretary for
Import Administration

Enclosure

BEST DOCUMENT AVAILABLE

(3510-25)

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

MELAMINE IN CRYSTAL FORM FROM THE NETHERLANDS

ANTIDUMPING: AMENDMENT OF FINAL DETERMINATION

AGENCY: U.S. Department of Commerce

ACTION: Amendment of Final Determination - Final Determination of Sales at Not Less than Fair Value.

SUMMARY:

This notice is to advise the public that, following clarification of certain facts, it has been determined that melamine in crystal form from the Netherlands has not been sold to the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended.

EFFECTIVE DATE:

(Date of Deputy Assistant Secretary's signature).

FOR FURTHER INFORMATION CONTACT:

Stuart S. Keitz, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1769).

SUPPLIMENTARY INFORMATION:

On March 27, 1980, a notice of "Final Determination of Sales at Less than Fair Value" was published in the Federal Register (45 Fed. Reg. 20152) in accordance with section 353.44(f), Commerce Regulations (19 C.F.R. 353.44(f). At the time of the publication of that notice the Commerce Department was studying additional

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[redacted]

evidence in support of the claim made by counsel for the respondent that the differences between the prices being compared (margins) were due solely to a temporary fluctuation in the exchange rate between the West German mark and the United States dollar. (West Germany was used as the third country market for this investigation). Examination of the currency trends revealed that not only were there significant increases in the exchange rate during each of the calendar quarters within which the period of investigation occurred, but these quarters were preceded and followed by decreases in exchange rate. In order to test the effect of this fluctuation against the requirements of section 353.56(b), Commerce Regulations (19 C.F.R. 353.56(b), 45 Fed Reg. 8206), the data which yielded the margins in each quarter was subjected to recalculation using the exchange rate applicable to the previous quarter, respectively. The rationale of this test was that the exporter should be given a "reasonable period" within which to adjust prices. The one quarter lag is considered appropriate for this purpose. The results of the test revealed no dumping margins on any of the sales during the period of investigation. It is deemed appropriate, therefore, to conclude that the margins revealed by the antidumping investigation were entirely due to a temporary fluctuation in the exchange rate for which the exporter could not reasonably be expected to adjust prices.

[redacted] BEST DOCUMENT AVAILABLE

For the reasons stated above, pursuant to section 735 of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d), I hereby conclude that melamine in crystal form from the Netherlands is not being nor is likely to be sold at less than fair value and the final determination is amended accordingly.

15 APR 1980

John D. Greenwald
Deputy Assistant Secretary for
Import Administration

Certified to be a true
copy of the original

Certifying Officer
International Trade Administration
Department of Commerce

[redacted]

APPENDIX I

COMMERCE'S LETTER OF APRIL 16, 1980, TO THE COMMISSION

[redacted]

UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary for International Trade
Washington, D.C. 20230

April 16, 1980

RECEIVED
APR 17 1980
OFFICE OF THE SECRETARY
U.S. INTL. TRADE COMMISSION

Honorable Catherine Bedell
Chairman, United States
International Trade Commission
701 E Street, N.W.
Washington, D.C. 20436

Dear Madam Chairman:

We informed you in a letter dated March 21, 1980 that, in accordance with Section 735(a) of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d(a)), the Department of Commerce had determined that melamine in crystal form from the Netherlands is being sold at less than fair value.

A subsequent letter to you on April 15, 1980 concerning this matter stated that our original finding was incorrect. This determination was made without the opportunity for notice and comment to all parties that we feel appropriate in these circumstances. Accordingly, the conclusion contained in our letter of March 21 that melamine in crystal form from the Netherlands is being sold at less than fair value represents the Department of Commerce's determination pursuant to the statute.

Sincerely,

Robert E. Herzstein
Under Secretary

BEST DOCUMENT AVAILABLE

APPENDIX J

COMMERCE'S AMENDED FINAL DETERMINATION WITH RESPECT TO MELAMINE FROM THE NETHERLANDS

[redacted]

UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary for International Trade
Washington D C 20230

Rec'd 4/25/80
5pm

April 25, 1980

Honorable Catherine Bedell
Chairman, International
  Trade Commission
Washington, D.C. 20436

Dear Madam Chairman:

In a letter dated March 21, 1980, this Department informed you, in accordance with section 735(a) of the Tariff Act of 1930, as amended (93 Stat. 169, 19 U.S.C. 1673d(a)), that melamine in crystal form from the Netherlands is being sold at less than fair value.

We have concluded that our original determination was incorrect. Please be advised that the evidence on hand reveals that melamine in crystal form from the Netherlands is not being sold at less than fair value. The enclosed copy of the Federal Register Notice amending our determination describes the basis for this decision.

I apologize for the inconvenience this change has caused for you, the other Commissioners, and the Staff.

Sincerely,

Robert E. Herzstein
Under Secretary

Enclosure

[redacted]

DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION
MELAMINE IN CRYSTAL FORM FROM THE NETHERLANDS
ANTIDUMPING: AMENDMENT OF FINAL DETERMINATION

AGENCY: U.S. Department of Commerce

ACTION: Amendment of Final Determination - Final Determination of Sales at Not Less than Fair Value

SUMMARY:

Following reconsideration of the final determination in this case, this Department has determined that melamine in crystal form from the Netherlands has not been sold to the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended.

EFFECTIVE DATE:

(Date of Under Secretary's signature).

FOR FURTHER INFORMATION CONTACT:

Stuart S. Keitz, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1769).

SUPPLEMENTARY INFORMATION:

On March 20, 1980, this Department issued a notice of a final determination of sales at less than fair value of melamine in crystal form from the Netherlands (45 Federal Register 20152). Margins had been found on 93.5 percent of sales to the United States during the period investigated. The margins ranged from 1.97 percent to 4.64 percent, with a weighted average margin for all sales of 2.18 percent.

Respondent sought reconsideration of the determination of March 20 on the ground that it did not correctly apply section 353.56(b) of the Commerce Department Regulations (19 CFR 353.56(6), 45 Fed. Reg. 8206), which deals with the effect of exchange rate fluctuations on fair value determinations. Correct application of the regulation results in a finding of no margins. Accordingly, I amend the final determination and find that melamine in crystal form from the Netherlands is not being, and is not likely to be, sold at less than fair value.

The Issue of Reconsideration. Generally, of course, final determinations in antidumping cases are not amended. In some instances, though, amendment of a final determination is appropriate in order to remedy mistakes in the original determination. The present case, which grows out of the unique circumstances created by the Trade Agreements Act of 1979 (P.L. 96-39) and the reorganization of Executive Branch trade responsibilities, is one such instance.

The March 20 determination in this case was one of many issued in mid-March under the new time limits imposed by Title I of the Trade Agreements Act (the "Act"). Section 102 of the Act required that all antidumping and countervailing duty cases in which there had been preliminary determinations under the Antidumping Act of 1921 be decided within seventy-five days after the new Act took effect on January 1, 1980. This requirement meant that many determinations were due simultaneously and, as it happens, during the period that administration of the law was being transferred to this agency.

This case involved consideration of sales during a period of rapidly fluctuating exchange rates which, though not unique, was of a sort rarely present in antidumping investigations.

As a result of the above conditions, 19 CFR 353.56(b) was not correctly applied in the March 20 determination. In these circumstances, a reconsideration of this discrete issue is appropriate.

Procedural Issues. Counsel for respondents submitted several letters to this Department after the final determination. Counsel requested reconsideration of the determination based on the exchange rate issue. Included in one of these letters was reference to applicable precedent for applying 19 CFR 353.56(b). Considering this issue more fully, the staff issued an amended determination.

However, copies of the letters in question had not been received by counsel for petitioners. In light of Section 353.46(a) of the Department of Commerce regulations, as well as basic notions of procedural fairness, I instructed that the amended determination not be published in the Federal Register.

We arranged for a conference at which both sides would be represented. This conference allowed counsel for petitioner and respondent to address the issue of exchange rate fluctuations. We have also accepted a number of written submissions from counsel for petitioners and respondents, including submissions after the conference. The issue of exchange rate fluctuations is one that has been known to both sides since the prehearing briefs were filed in early March. In these circumstances, we believe that each party has had adequate opportunity for comment on the matter.

Exchange Rate Fluctuations. Section 353.56(b) of the Department of Commerce regulations governs situations where rapidly fluctuating exchange rates distort price comparisons between national markets:

> For purposes of fair value investigations, manufacturers, exporters, and importers concerned will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. Where prices under consideration are affected by temporary exchange rate fluctuations, no differences between the prices being compared resulting solely from such exchange rate fluctuations will be taken into account in fair value investigations.

The purpose of this regulation is clear. Antidumping investigations are meant to determine whether prices of merchandise sold in the United States are at less than "fair value." When exchange rates are fluctuating substantially, a given dollar price of a product in the United States could change technically from fair to "unfair" literally from day to day, even if the foreign price of the product, denominated in the foreign currency, also remained constant. This result is not called for by the language or purpose of the Act. It would be unrealistic to expect business to change prices instantaneously to take account of fluctuating exchange rates. So too, weekly price changes could create substantial confusion and inconvenience for the customers of that business.

The regulation, then, allows a reasonable period in which the business may take sustained exchange rate fluctuations into account. The regulation further instructs that temporary fluctuations should not be the sole basis for determinations of less than fair value sales. Businesses are to be given time to assess whether one currency has truly appreciated against another before changing their pricing practices.

The period covered by this investigation was certainly one of volatile changes in the exchange rate between the dollar and the West German mark (the currency of the third country sales compared with the U.S. sales in this investigation). The dollar dropped steadily during the month of October 1978, rebounded sharply after President Carter's announcement in late October of special measures to strengthen the dollar, and then declined again in December.

The comparison in the March 20 determination was based upon the certified quarterly exchange rate of the Federal Reserve Board. Comparison of prices for sales during a given quarter were based on the exchange rate for that quarter. The results were the margins noted earlier. When the comparison is made on the basis of the exchange rate in the preceding quarter, however, there are no margins. There seems little doubt that this situation is exactly the type contemplated in section 353.56(b). The appropriate approach will vary from case to case, depending on the particular facts of the case.

The conclusion that there had been no sales at less than fair value should have been reached simply by applying the regulation, because the margins were the sole result of exchange rate fluctuation. The precedents cited by respondent, particularly Motorcycles from Japan (43 Fed. Reg. 48754), reinforce this result. In that case the Treasury Department specifically applied a "one quarter lag" in determining whether there were less than fair value sales during a period in which the value of the Japanese yen changed significantly. Counsel for petitioner has argued that this case is not relevant because it involved an offer of price assurances by the respondent. The fact that an offer of price assurances was involved does not alter the proper method for making a fair value comparison, however.

For the reasons stated above, I conclude that melamine in crystal form from the Netherlands is not being nor is likely to be sold at less than fair value, and the final determination is amended to reflect this determination.

The International Trade Commission was informed of the possibility of an amended determination on April 15. The Commission put off its final consideration of the three melamine cases to await further notice from the Department of Commerce. We have informed the Commission of this modification.

Robert E Herzstein

Robert E. Herzstein

Under Secretary for International Trade

APPENDIX K

MCI'S LETTER OF FEBRUARY 21, 1979, TO THE COMMISSIONER OF CUSTOMS

Library Cataloging Data

United States. International Trade Commission.

Melamine in crystal form from Austria and Italy : determination of no material injury or threat thereof in investigations nos. 731-TA-13 (final) and 731-TA-14 (final) under the Tariff act of 1930, together with the information obtained in the investigations / USITC. -- Washington : USITC, 1980.

19, A 132 p. : ill. ; 28 cm. -- (USITC publication ; 1065)

1. Melamine crystals--Austria. 2. Melamine crystals--Italy. I. Title.